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U.S. GOVERNMENT
INFORMATION
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FEDERAL REGISTER

Vol. 86 Friday

No. 97 May 21, 2021

Pages 27505–27796

OFFICE OF THE FEDERAL REGISTER

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Presidential Documents

Title 3—

The President

Proclamation 10214 of May 18, 2021

National Hepatitis Testing Day, 2021

By the President of the United States of America

A Proclamation

Our efforts to combat the COVID–19 pandemic over the past year have reinforced many public health lessons, including the importance of communication, community engagement, and a comprehensive testing strategy to reduce the spread of infection. These same lessons hold true for another epidemic affecting our Nation: the silent epidemic of viral hepatitis. Viral hepatitis is a serious, preventable public health threat that puts people who are infected at increased risk for serious disease and death. When left undiagnosed and untreated, hepatitis B and hepatitis C can cause liver cirrhosis, liver cancer, and even early death. Hepatitis D, which occurs only among individuals infected with hepatitis B, can also cause serious liver disease. On this National Hepatitis Testing Day, I call on all Americans who are at risk for hepatitis to get tested, and for all health care providers to educate their patients about viral hepatitis.

Our Nation has set a goal to eliminate viral hepatitis by 2030. Thanks to Federal investment in medical research, we have the technology and tools to provide safe and effective hepatitis vaccines and therapeutics that can reduce mortality and even lead to a cure. Despite this progress, an estimated 2.4 million Americans are living with hepatitis C, and more than 860,000 are living with hepatitis B—many of whom unknowingly suffer its effects. Approximately 200,000 Americans are infected with hepatitis D every year. Infection with hepatitis D in an individual already infected with hepatitis B—known as superinfection—leads to a more rapid progression towards liver cancer. We must increase prevention, testing, and awareness to provide people the life-saving treatment they need. Because of the Affordable Care Act, most health insurance plans must cover hepatitis B and hepatitis C testing with no cost-sharing.

The Centers for Disease Control and Prevention recommends screening and testing for hepatitis B, hepatitis C, and hepatitis D based on risk, health status, and pregnancy. It is important we implement these recommendations to ensure proper treatment and help stop the spread of hepatitis. For more information on the recommendations, visit cdc.gov/hepatitis.

My Administration is committed to addressing the health disparities and health inequities, which, as with so many health metrics, are also seen with viral hepatitis. Viral hepatitis disproportionately impacts Black and brown Americans, Indigenous persons, Asian Americans, Native Hawaiians, and Pacific Islanders. The interplay of factors such as poverty, inadequate housing and transportation, food insecurity, access to care, access to addiction treatment and mental health care, medical mistrust, language and cultural barriers, stigma, and discrimination must be addressed if we are to eliminate these health disparities and advance health equity. The recently released Viral Hepatitis National Strategic Plan: A Roadmap to Elimination is focused on making sure more people living with viral hepatitis are tested and aware of their status and providing a roadmap for quality care and treatment. To read more about the plan, visit hhs.gov/hepatitis.

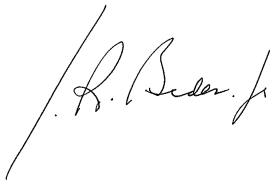
The viral hepatitis epidemic is also linked with other public health threats, including HIV, sexually transmitted infections, and opioid use. Our response

to the public health challenges of viral hepatitis, HIV, sexually transmitted infections, and substance use disorders will require a focus on the people and places where these risk factors intersect, and doing more to test people for viral hepatitis and other infections. We also need to scale-up vaccinations, testing, and care in settings where people at risk receive other services. Implementing point-of-care testing in outreach settings, utilizing clinical decision support tools, and increasing provider awareness and training for implementing testing recommendations will help improve diagnoses and awareness. The ability to reduce viral hepatitis infections will depend on integrated strategies and a comprehensive approach to address our ongoing challenges.

Viral hepatitis exacts a significant toll on our Nation's health, and the stigma and discrimination associated with the disease further impair the quality of life among those affected. Today, we reaffirm our commitment to ensuring everyone knows their viral hepatitis status, has access to high quality care and treatment, and lives free from stigma and discrimination.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 19, 2021, as National Hepatitis Testing Day. I encourage all Americans to join in activities that will increase awareness about viral hepatitis and increase viral hepatitis testing.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of May, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-fifth.



[FR Doc. 2021–10922
Filed 5–20–21; 8:45 am]
Billing code 3295–F1–P

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FEDERAL RESERVE SYSTEM

12 CFR Part 215

[Regulation O; Docket No. R–1740]

RIN 7100–AG 10

Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Interim final rule with request for comment.

SUMMARY: On April 17, 2020, the Board issued an interim final rule to except certain loans made through June 30, 2020, that are guaranteed under the Small Business Administration's Paycheck Protection Program from the requirements of the Federal Reserve Act and the associated provisions of the Board's Regulation O. The Board issued two additional interim final rules to extend the exception when Congress approved extensions to the Paycheck Protection Program. To reflect a further extension approved by Congress and to automatically capture any further extensions, the Board is issuing this interim final rule to extend this exception to such loans made through March 31, 2022.

DATES: This interim final rule is effective May 21, 2021. Comments on the interim final rule must be received no later than July 6, 2021.

ADDRESSES: You may submit comments, identified by Docket No. R–1740 and RIN 7100 AG 10, by any of the following methods:

- *Agency Website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Email: regs.comments@federalreserve.gov.* Include docket and RIN numbers 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 at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments also may be viewed electronically or in paper form in Room 146, 1709 New York Avenue NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Benjamin McDonough, Associate General Counsel, (202) 452–2036, Alison Thro, Deputy Associate General Counsel, (202) 452–3236, Daniel Hickman, Senior Counsel, (202) 973–7432, Josh Strazanac, Senior Attorney, (202) 452–2457, Jasmin Keskinen, Attorney, (202) 475–6650, Legal Division; or Anna Lee Hewko, Associate Director, (202) 530–6360, Juan Climent, Assistant Director, (202) 872–7526, (202) 452–5239, Kathryn Ballintine, Manager, (202) 452–2555, Rebecca Zak, Lead Financial Institution Policy Analyst, (202) 912–7995, Eusebius Luk, Senior Financial Policy Analyst I, (202) 452–2874, Division of Supervision and Regulation; Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. Users of Telecommunication Device for Deaf (TDD) only, call (202) 263–4869.

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I. Background

On March 27, 2020, the President signed into law the Coronavirus Aid, Relief, and Economic Security (CARES) Act which, among other things, created the Paycheck Protection Program (PPP) to facilitate lending to small businesses affected by the outbreak of COVID–19 and the imposition of associated containment measures (COVID event). Although the CARES Act specified that the PPP would end on June 30, 2020, Congress later extended the program to August 8, 2020, and again to March 31, 2021.[1] On March 30, 2021, the President signed into law the PPP Extension Act of 2021 (PPP Extension Act), which further extended the PPP to June 30, 2021.[2]

Sections 22(g) and 22(h) of the Federal Reserve Act and Regulation O set forth quantitative and qualitative requirements for loans made by a bank[3] to its directors, executive officers, and principal shareholders, as well as to any companies owned by such persons (collectively, insiders).[4] Regulation O also sets forth procedural and recordkeeping requirements for loans by banks to their insiders. These requirements normally would apply to PPP loans made by banks to the small businesses owned by their insiders. In some cases, the restrictions in Regulation O could delay or entirely prohibit a bank from making a PPP loan to such a business. This could be particularly challenging in small communities where bank insiders often own small businesses and there are few alternative lenders.

On April 17, 2020, the Board issued an exception to section 22(h) and amended the corresponding provisions of Regulation O for PPP loans made to insiders that would not be prohibited

[1] Prioritized Paycheck Protection Program Act, S. 4116, 116th Cong. section 1 (2020); Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, H.R. 133, 116th Cong. section 311 (2020).

[2] PPP Extension Act of 2021, H.R. 1799, 117th Cong. section 2 (2021).

[3] Sections 22(g) and 22(h), and Regulation O, apply to all banks that are members of the Federal Reserve System. Other federal law subjects federally insured state non-member banks and insured savings associations to sections 22(g) and 22(h) in the same manner and to the same extent as if they were member banks. 12 U.S.C. 1828(j) (non-member banks); 12 U.S.C. 1468(b) (savings associations); 12 CFR 337.3 (state non-member banks and state savings associations); 12 CFR 31.2 (national banks and federal savings associations). Accordingly, any reference to ''bank'' in this notice applies to all member banks and institutions subject to sections 22(g) and 22(h) in the same manner and to the same extent as member banks.

[4] *See generally* 12 U.S.C. 375a and 375b; 12 CFR part 215.

from receiving a PPP loan under the Small Business Administration (SBA) lending restrictions (original IFR).[5] The exception was intended to facilitate lending by banks to a broad range of small businesses within their communities, consistent with applicable law and safe and sound banking practices. The exception applied only to PPP loans made by June 30, 2020, the original date on which the PPP was set to expire. The Board has extended the exception each time that Congress has extended the PPP.[6] The Board responded to the dozen comments it received in response to the interim final rules issued in April and July in the interim final rule issued on February 17, 2021.[7] Since issuing its last interim final rule, the Board received two comments, neither of which discussed the interim final rules, sections 22(g) and 22(h), or Regulation O.

The Board is issuing this interim final rule to extend the exception to PPP loans made through June 30, 2021.[8] The exception will continue to apply if Congress and the President extend the PPP further, but will sunset on March 31, 2022.

II. The Interim Final Rule

Section 22(h) authorizes the Board to adopt, by regulation, exceptions to the definition of ''extension of credit'' in section 22(h) for transactions that ''pose minimal risk.'' [9] Therefore, the Board may except PPP loans from the restrictions in section 22(h) and the corresponding provisions of Regulation O upon a determination that such loans pose minimal risk.

The Board determined in the original IFR that PPP loans pose minimal risk.[10] Among other things, this determination relieved member banks from ensuring that PPP loans made to certain insiders complied with the qualitative, quantitative, and procedural requirements set forth in section 22(h) and Regulation O. The PPP Extension Act did not change any of the features of PPP loans on which the Board relied in the original IFR to determine that PPP loans pose minimal risk. Accordingly, for the same reasons cited in the original IFR, the Board has determined that PPP loans appear to pose minimal risk to bank safety and soundness.[11]

The exception will continue to apply if Congress and the President further extend the PPP, provided that the material terms of the PPP on which the Board has justified the exception remain the same. Specifically, the exception will continue to apply to PPP loans made under an extended program as long as the SBA continues to fully guarantee the loans and the material terms of the loan, including the interest rate and term, are set by the SBA. The exception will not apply for any loans made after March 31, 2022. The duration of the sunset provision is consistent with other exceptions the Board has made in response to the COVID event.[12]

SBA lending restrictions continue to apply to PPP loans that are subject to section 22(h) and the corresponding provisions of Regulation O.[13] Excepting loans that would be prohibited by the SBA lending restrictions from the requirements of section 22(h) and the corresponding provisions in Regulation O would not achieve any meaningful regulatory purpose. Excepting these loans from one regime and not the other also may create confusion because some lenders may mistakenly interpret an exception under one regime to extend to both regimes. Accordingly, the exception continues to apply only for insiders that would not be prohibited from receiving a PPP loan by the SBA lending restrictions.

This interim final rule does not except a PPP loan from other restrictions that may apply to the loan, including section 22(g) of the Federal Reserve Act or section 215.5 of Regulation O.[14] This determination also does not affect application of SBA lending restrictions to a PPP loan. The SBA has stated that ''[f]avoritism by [a PPP] [l]ender in processing time or prioritization of [a] director's or equity holder's PPP application is prohibited.'' [15] The Board will administer the interim final rule accordingly.

Question 1: Please describe any additional terms or conditions that should apply to the exception.

Question 2: What are the advantages and disadvantages for the exception to automatically extend if the PPP is again extended?

III. Administrative Law Matters

A. Administrative Procedure Act

The Board is issuing the interim final rule without prior notice and the opportunity for public comment and the delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).[16] Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [17]

The Board believes that the public interest is best served by implementing the interim final rule immediately in light of the short timeframe for execution of the renewed PPP mandated by the PPP Extension Act. Accordingly, the Board finds that there is good cause consistent with the public interest to issue the rule without advance notice and comment.[18]

The APA also requires a 30-day delayed effective date, except for (1) substantive rules which grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.[19] Because the rules relieve a restriction by providing an exception to the definition of ''extension of credit'' in section 22(h) and Regulation O, the interim final rule is exempt from the APA's delayed effective date requirement.[20]

While the Board believes that there is good cause to issue the rule without advance notice and comment and with an immediate effective date, the Board is interested in the views of the public and requests comment on all aspects of the interim final rule.

B. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501–3521) (PRA) states that no

[5] ''Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks,'' 85 FR 22345 (Apr. 22, 2020)).

[6] ''Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks,'' 85 FR 43119 (July 16, 2020); ''Loans to Executive Officers, Directors, and Principal Shareholders of Member Bank,'' 86 FR 9837 (Feb. 17, 2021).

[7] *Id.* at 9839.

[8] References in this IFR to ''PPP loans'' include ''PPP second draw loans,'' which are PPP loans that that can be made to borrowers who already have received a first PPP loan. PPP second draw loans have the same features as PPP loans, except that fewer borrower are eligible for PPP second draw loans. For example, only borrowers with 300 or fewer employees may obtain a PPP second draw loan. *See* Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, H.R. 133, 116th Cong. section 311 (2020).

[9] 12 U.S.C. 375b(9)(D)(ii).

[10] 85 FR 22345, 22346.

[11] 85 FR 22345, 22346 (Apr. 22, 2020); 85 FR 43119, 43119–20 (July 16, 2020); 86 FR 9837, 9838 (Feb. 17, 2021).

[12] *E.g.,* Temporary Exclusions of U.S. Treasury Securities and Deposits at Federal Reserve Banks From the Supplementary Leverage Ratio, 85 FR 20578 (Apr. 14, 2020).

[13] Business Loan Program Temporary Changes; Paycheck Protection Program as Amended by the Economic Aid Act, 86 FR 3712 (Jan. 6, 2021).

[14] 12 U.S.C. 375a; 12 CFR 215.5.

[15] 86 FR 3712, 3696.

[16] 5 U.S.C. 553.

[17] 5 U.S.C. 553(b)(B).

[18] 5 U.S.C. 553(b)(B); 553(d)(3).

[19] 5 U.S.C. 553(d).

[20] 5 U.S.C. 553(d)(1).

agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number. 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, as well as the authority to temporarily approve a new collection of information without providing opportunity for public comment if the Board determines that a change in an existing collection must be instituted quickly and that public participation in the approval process would defeat the purpose of the collection or substantially interfere with the Board's ability to perform its statutory obligations.

This interim final rule does not contain any collections of information subject to the PRA.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA)[21] requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.[22] The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed previously, consistent with section 553(b)(B) of the APA, the Board has determined for good cause that general notice and opportunity for public comment are unnecessary, and therefore the Board is not issuing a notice of proposed rulemaking. Accordingly, the Board has concluded that the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

Nevertheless, the Board seeks comment on whether, and the extent to which, the interim final rule affects a significant number of small entities.

D. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[23] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), the federal banking agencies must consider, consistent with the principle of safety and soundness and the public interest, any administrative burdens that such regulations would place on depository institutions, including small depository institutions, and customers of depository institutions, as well as the benefits of such regulations. In addition, section 302(b) of RCDRIA requires new regulations and amendments to regulations that impose additional reporting, disclosures, or other new requirements on IDIs generally to take effect on the first day of a calendar quarter that begins on or after the date on which the regulations are published in final form, with certain exceptions, including for good cause.[24] The Board believes that the public interest is best served by implementing the interim final rule immediately. As discussed in the original IFR, the COVID event has disrupted economic activity in the United States and other countries. The magnitude and persistence of the COVID event on the economy continue to present some uncertainty. In light of the substantial disruptions in the economy, and the likelihood that this interim final rule will help ameliorate those disruptions by promoting lending to small businesses, the Board finds good cause exists under section 302 of RCDRIA to publish this interim final rule with an immediate effective date.

As such, the interim final rule will be effective immediately on publication. Nevertheless, the Board seeks comment on RCDRIA.

E. Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act[25] requires the federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Board has sought to present the interim final rule in a simple and straightforward manner. The Board invites comments on whether there are additional steps it could take to make the rule easier to understand. For example:

- *Have we organized the material to suit your needs? If not, how could this material be better organized?*
- *Are the requirements in the regulation clearly stated? If not, how could the regulation be more clearly stated?*
- *Does the regulation contain language or jargon that is not clear? If so, which language requires clarification?*
- *Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?*
- *What else could we do to make the regulation easier to understand?*

List of Subjects in 12 CFR Part 215

Credit, Penalties, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the preamble, the Board of Governors of the Federal Reserve System amends 12 CFR chapter II as follows:

PART 215—LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS (REGULATION O)

■ 1. The authority citation for part 215 continues to read as follows:

Authority: 12 U.S.C. 248(a), 375a(10), 375b(9) and (10), 1468, 1817(k), 5412; and Pub. L. 102–242, 105 Stat. 2236 (1991) (12 U.S.C. 1811 note).

■ 2. In § 215.3, revise paragraphs (b)(8)(i) through (iii) and add paragraph (b)(8)(iv) to read as follows:

§ 215.3 Extension of credit.

* * * * *

(b) * * *

(8) * * *

(i) Made pursuant to the ''Paycheck Protection Program'' in which the participation by the Small Business Administration on a deferred basis is 100 percent;

(ii) For which material terms, including the maturity and the interest rate, are set by the Small Business Administration;

(iii) That is made during the ''covered period,'' as that term is defined in 15 U.S.C. 636(a)(36)(A)(iii), but in no case later than March 31, 2022; and

(iv) That would not be prohibited by 13 CFR 120.110(o) or rules or interpretations thereof issued by the Small Business Administration.

* * * * *

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

Ann Misback,

Secretary of the Board.

[FR Doc. 2021–10711 Filed 5–20–21; 8:45 am]

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[21] 5 U.S.C. 601 *et seq.*

[22] Under regulations issued by the SBA, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $600 million or less and trust companies with total assets of $41.5 million or less. *See* 13 CFR 121.201.

[23] 12 U.S.C. 4802(a).

[24] 12 U.S.C. 4802.

[25] 12 U.S.C. 4809.

FARM CREDIT ADMINISTRATION

12 CFR Part 627

RIN 3052–AD46

Title IV Conservators and Receivers

AGENCY: Farm Credit Administration.

ACTION: Notification of effective date.

SUMMARY: The Farm Credit Administration (FCA) issued a direct final rule to repeal certain conservatorship and receivership regulations that have been superseded by the Agricultural Improvement Act of 2018. In accordance with the law, the effective date of the rule is no earlier than 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session.

DATES: The direct final rule amending 12 CFR part 627, published on March 22, 2021 (86 FR 15081), is effective on May 13, 2021.

FOR FURTHER INFORMATION CONTACT:

Technical information: Ryan Leist, *LeistR@fca.gov,* Senior Accountant, or Jeremy R. Edelstein, *EdelsteinJ@fca.gov,* Associate Director, Finance and Capital Markets Team, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4414, TTY (703) 883–4056 or *ORPMailbox@fca.gov;* or

Legal information: Richard Katz, *KatzR@fca.gov,* Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION: On March 22, 2021, FCA issued a direct final rule to repeal certain conservatorship and receivership regulations in part 627 that have been superseded by section 5412 of the Agricultural Improvement Act of 2018. In accordance with 12 U.S.C. 2252(c)(1), the effective date of the rule is no earlier than 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is May 13, 2021.

Dated: May 13, 2021.

Dale Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2021–10577 Filed 5–20–21; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1191; Airspace Docket No. 20–AGL–41]

RIN 2120–AA66

Revocation of VOR Federal Airway V–242 Due to the Planned Decommissioning of the Atikokan, Ontario, Canada, Nondirectional Radio Beacon (NDB) Navigation Aid

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes VHF Omnidirectional Range (VOR) Federal airway V–242 in the northcentral United States to reflect changes being made by NAV CANADA in Canadian airspace. The airway removal is necessary due to the planned decommissioning of the Atikokan, Ontario (ON), Canada, NDB navigation aid (NAVAID), which provides navigation guidance for V–242. The Atikokan NDB is being decommissioned as part of NAV CANADA's NAVAID Modernization Program.

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

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

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA–2020–1191 in the **Federal Register** (85 FR 83839; December 23, 2020), removing VOR Federal airways V–242 in the northcentral United States to reflect changes being made by NAV CANADA in Canadian airspace. The proposed revocation action was due to the planned decommissioning of the Atikokan, ON, Canada, NDB NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airway listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending 14 CFR part 71 to remove VOR Federal airway V–242. The planned decommissioning of the Atikokan, ON, Canada, NDB has made this action necessary. The proposed change is outlined below.

V–242: V–242 extends between the International Falls, MN, VOR/DME and the Atikokan, ON, Canada, NDB, excluding that airspace within Canada. The airway is removed in its entirety.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of removing VOR Federal airway V–242, due to the planned decommissioning of the Atikokan, ON, Canada, NDB NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–242 [Removed]

* * * * *

Issued in Washington, DC, on May 17, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–10617 Filed 5–20–21; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1103; Airspace Docket No. 20–ACE–21]

RIN 2120–AA66

Amendment of V–72, V–132, V–190, and V–289, and Revocation of V–238 in the Vicinity of Maples, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–72, V–132, V–190, and V–289; and removes VOR Federal airway V–238 in the vicinity of Maples, MO. The VOR Federal airway modifications are necessary due to the planned decommissioning of the VOR portion of the Maples, MO, VOR/Tactical Air Navigation (VORTAC) navigation aid (NAVAID) which provides navigation guidance for portions of the affected airways listed above. The Maples VOR is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

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

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

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking (NPRM) for Docket No. FAA–2020–1103 in the

Federal Register (85 FR 79446; December 10, 2020), amending VOR Federal airways V–72, V–132, V–190, and V–289; and removing VOR Federal airway V–238 in the vicinity of Maples, MO. The proposed amendment and revocation actions were due to the planned decommissioning of the VOR portion of the Maples, MO, VORTAC NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

Subsequent to the NPRM, the FAA published a rule for Docket No. FAA–2020–0944 in the **Federal Register** (86 FR 16296; March 29, 2021), amending VOR Federal airway V–190 by removing the airway segment overlying the Marion, IL, VOR/DME between the Farmington, MO, VORTAC and the Pocket City, IN, VORTAC. That airway amendment, effective June 17, 2021, is included in this rule.

VOR Federal airways are published in paragraph 6010(a) of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending 14 CFR part 71 by modifying VOR Federal airways V–72, V–132, V–190, and V–289, and removing V–238. The planned decommissioning of the VOR portion of the Maples, MO, VORTAC has made this action necessary.

The VOR Federal airway changes are outlined below.

V–72: V–72 extends between the Razorback, AR, VORTAC and the Bible Grove, IL, VORTAC. The airway segment overlying the Maples, MO, VORTAC between the Dogwood, MO, VORTAC and the Farmington, MO, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V–132: V–132 extends between the Medicine Bow, WY, VOR/DME and the intersection of the Forney, MO, VOR 086° and Maples, MO, VORTAC 052° radials (LENOX fix). The airway excludes that portion within restricted areas R–4501A, R–4501B, R–4501C and R–4501D during their time of activation. The LENOX fix is redefined as the intersection of the existing Forney, MO, VOR 086° radial and new Vichy, MO, VOR/DME 156° radial. The existing airway remains as charted and the exclusion language remains unchanged.

V–190: V–190 extends between the Phoenix, AZ, VORTAC and the Farmington, MO, VORTAC. The airway segment overlying the Maples, MO, VORTAC between the Springfield, MO, VORTAC and the Farmington, MO, VORTAC is removed. The unaffected portions of the existing airway remain as charted.

V–238: V–238 extends between the Maples, MO, VORTAC and the Troy, IL, VORTAC. The airway is removed in its entirety.

V–289: V–289 extends between the Beaumont, TX, VORTAC and the Vichy, MO, VOR/DME. The airway point defined by the intersection of the Dogwood, MO, VORTAC 058° and Maples, MO, VORTAC 236° radials (MUPIE fix) is removed and the airway point defined by the intersection of the Maples, MO, VORTAC 236° and Vichy, MO, VOR/DME 204° radials (GOBEY fix) is redefined as the intersection of the new Dogwood, MO, VORTAC 058° radial and existing Vichy, MO, VOR/DME 204° radial. The existing airway remains as charted.

All radials in the VOR Federal airway descriptions below are stated in True degrees.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of modifying VOR Federal airways V–72, V–132, V–190, and V–289, and removing V–238, due to the planned decommissioning of the VOR portion of the Maples, MO, VORTAC NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and

effective September 15, 2020, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–72 [Amended]

From Razorback, AR; to Dogwood, MO. From Farmington, MO; Centralia, IL; to Bible Grove, IL.

* * * * *

V–132 [Amended]

From Medicine Bow, WY; INT Medicine Bow 106° and Cheyenne, WY, 330° radials; Cheyenne; Akron, CO; 17 miles, 49 miles, 59 MSL, Goodland, KS; 50 miles, 97 miles, 65 MSL, Hutchinson, KS; INT Hutchinson 078° and Chanute, KS, 293° radials; Chanute; INT Chanute 100° and Springfield, MO, 276° radials; Springfield; INT Springfield 058° and Forney, MO, 266° radials; Forney; to INT Forney 086° and Vichy, MO, 156° radials, excluding that portion within R–4501A, R–4501B, R–4501C, and R–4501D during their time of activation.

* * * * *

V–190 [Amended]

From Phoenix, AZ; St. Johns, AZ; Albuquerque, NM; Fort Union, NM; Dalhart, TX; Mitbee, OK; INT Mitbee 059° and Pioneer, OK, 280° radials; Pioneer; INT Pioneer 094° and Bartlesville, OK, 256° radials; Bartlesville; INT Bartlesville 075° and Oswego, KS, 233° radials; Oswego; INT Oswego 085° and Springfield, MO, 261° radials; to Springfield.

* * * * *

V–238 [Removed]

* * * * *

V–289 [Amended]

From Beaumont, TX; INT Beaumont 323° and Lufkin, TX, 161° radials; Lufkin; Gregg County, TX; Texarkana, AR; Fort Smith, AR; Harrison, AR; Dogwood, MO; INT Dogwood 058° and Vichy, MO, 204° radials; to Vichy.

* * * * *

Issued in Washington, DC, on May 17, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–10616 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 361

[Docket No. 210512–0104]

RIN 0625–AB18

Aluminum Import Monitoring and Analysis System: Effective Date and Response to Comments

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

ACTION: Final rule; response to comments.

SUMMARY: The U.S. Department of Commerce (Commerce) is confirming the stay of the regulations entitled ''Aluminum Import Monitoring and Analysis System'' will be lifted on June 28, 2021. Commerce is also addressing the additional public comments received regarding the final rule. Finally, Commerce is also confirming that compliance with its regulations regarding the Aluminum Import Monitoring and Analysis (AIM) system, except for certain sections, will take effect on June 28, 2021 and is extending the temporary delay for compliance with the remaining sections its regulations from December 23, 2021 to June 28, 2022.

DATES:

Effective date: This document is effective on June 28, 2021.

Compliance dates: Compliance with 19 CFR part 361 (except for § 361.103(c)(3)(i)(C) and (c)(3)(ii)(C)) is required on June 28, 2021. *See* the **SUPPLEMENTARY INFORMATION** for more information. Section 361.103(c)(3)(i)(C) and (c)(3)(ii)(C) allow filers to state ''unknown'' for certain fields on the license application on a temporary basis through June 28, 2022. As of June 29, 2022, filers will no longer be able to state ''unknown'' and will be required to provide the requested information for these fields.

ADDRESSES: The AIM system website is *https://www.trade.gov/aluminum.* Through this website, potential license applicants can register for the online license application platform and apply for licenses. Additionally, the public AIM monitor is featured on this website. Commerce released the public AIM monitor using publicly available data through this website on March 29, 2021.

More information can be found in the final rule, on the AIM system website, and at *https://www.trade.gov/updates-aluminum-import-licensing.* Commerce is offering virtual demonstrations of the online license application platform for potential license applicants. Commerce is also offering a virtual demonstration of the public AIM monitor, which is available to the general public. Although the demonstrations will be completely virtual, Commerce will have a limited number of spots available for participation in the demonstrations. For specific dates and times of the demonstrations, and to participate in the demonstrations, please visit the AIM system website or *https://www.trade.gov/updates-aluminum-import-licensing.*

FOR FURTHER INFORMATION CONTACT: Julie Al-Saadawi at (202) 482–1930 or Jessica Link at (202) 482–1411, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 29, 2020, Commerce published a proposed rule for the establishment of the AIM system in 19 CFR part 361.[1] On December 23, 2020, Commerce published ''Aluminum Import Monitoring and Analysis System,'' (*Final Rule*), addressing 17 comments on the *Proposed Rule* and establishing the AIM system in 19 CFR part 361 that would be comprised of an aluminum import licensing program and a public AIM monitor, available through the AIM system website.[2]

As explained in the *Final Rule,* the AIM system requires importers, customs brokers or their agents to apply for and obtain an import license for each entry of certain aluminum products into the United States through the AIM system website; requires license applicants to identify, among other requirements, the country or countries where the largest and the second largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (subject to certain exceptions) and the country where the aluminum product was most recently cast; requires license applicants to report their license numbers on their entry summary documentation, or electronic equivalent, to U.S. Customs and Border Protection (CBP); allows for the public release of certain import license data on an aggregate basis, as appropriate, on the public AIM monitor; and applies the license requirement to all imports of basic aluminum products. The goal of the AIM system is to allow for the effective and timely monitoring of import surges of specific aluminum

[1] *Aluminum Import Monitoring and Analysis System Proposed Rule,* 85 FR 23748 (April 29, 2020) (*Proposed Rule*).

[2] *Aluminum Import Monitoring and Analysis System,* 85 FR 83804 (December 23, 2020) (*Final Rule*).

products and to aid in the prevention of transshipment of aluminum products. Modeled after the similar Steel Import Monitoring and Analysis (SIMA) system,[3] the AIM system is established pursuant to the Secretary's authority under the Census Act, as amended (13 U.S.C. 301(a) and 302). The responsibility for administering the AIM system is delegated to the Assistant Secretary for Enforcement and Compliance.

The original effective date for the *Final Rule* and part 361 was January 25, 2021, meaning that license numbers would be required to be reported to CBP on entry summary documentation, or electronic equivalent, for covered aluminum products on or after this date. On January 4, 2021, Commerce launched the AIM system website and allowed for importers, customs brokers and their agents to begin applying for and obtaining their import licenses.

On January 22, 2021, Commerce announced that it was delaying the effective date of the *Final Rule* and part 361 until March 29, 2021.[4] In the *Delay of Effective Date Notification,* published on January 27, 2021, Commerce also opened a 30-day comment period to solicit public comment on all aspects of the *Final Rule,* the AIM system, and part 361. The comment period closed on February 26, 2021. Commerce received four comments, addressed below.[5]

On March 29, 2021, Commerce announced that it was delaying compliance with most aspects of the *Final Rule* and part 361 by an additional ninety days, by staying part 361.[6] In the *Stay and Delay of Compliance Date Notification,* published on April 1, 2021, Commerce explained that the delay would allow Commerce time to finalize the license application system and to provide both the public and CBP with sufficient advance notice of the new compliance date. Commerce also explained that the delay would allow Commerce to consider and respond, as appropriate, to the comments received during the January 27, 2021 to February 26, 2021 comment period.

Although Commerce delayed compliance with most aspects of the *Final Rule* and part 361, Commerce released the public AIM monitor on the AIM system website on March 29, 2021. The public AIM monitor provides information on U.S. imports of aluminum from all countries by broad product categories in both value and volume measures. The public AIM monitor currently only includes publicly available import data, as the license information is not yet available. Once the license collection begins after June 28, 2021, and Commerce has sufficient time to review the license data, the public AIM monitor will report certain aggregate information on imports of covered aluminum product categories using both publicly available import data and data obtained from the aluminum licenses.

With this document, Commerce confirms that compliance with most aspects of the *Final Rule* and part 361 will be required on June 28, 2021. Specifically, licenses will be required for all covered aluminum imports and must be reported to CBP on entry summary documentation, or electronic equivalent, on or after this date. Additionally, the remaining portions of the regulations concerning the removal of the option to state ''unknown'' for certain fields on the aluminum license form will now be effective on June 29, 2022, as discussed below, and as stated in the relevant sections of part 361.[7]

As discussed above, the AIM system website is operational and potential license applicants may obtain their user identification numbers and apply for and obtain licenses at any time. Potential license applicants are encouraged to obtain user identification numbers and familiarize themselves with the system. Any licenses that were issued prior to June 28, 2021 and are less than 75 days old can be used for covered aluminum imports on or after June 28, 2021. Any licenses that were issued prior to June 28, 2021 and have expired (*i.e.,* licenses issued prior to April 14, 2021), may be disregarded. If parties are unsure whether a previously issued license has expired, the party may cancel the previous license and obtain a new one. There is no penalty for unused or canceled licenses. Commerce also requests that parties cancel licenses that will not be used.

Lastly, because the AIM system is a new program, Commerce will seek additional comment from the public on potential improvements or changes to the system in a subsequent document after the AIM system is in place. Parties will have the opportunity to provide further comment on any issue discussed herein or any related topic at that time.

Explanation of Changes From the Final Rule

The AIM system and part 361 are unchanged from the *Final Rule,* except that, as explained below, Commerce is extending the period for license applicants to state ''unknown'' for certain fields on the license application on a temporary basis. This period, originally set to expire on December 23, 2021, is now extended to June 28, 2022.

Section 361.103, covering the automatic issuance of import licenses, provides that aluminum import licenses will be issued to registered importers, customs brokers, or their agents through an automatic aluminum import licensing system. In order to obtain the license, the applicant (also referred to as the filer) must report the information identified under § 361.103(c)(1) in the fields of the license application form. As described in the *Final Rule* and as stated in § 361.103(c)(1)(xiii), (xiv), and (xv), among other requirements, Commerce requires the applicant to provide the following information in three separate fields: (1) The country where the largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (referred to as ''country of smelt for the largest volume of primary aluminum'' or ''country of smelt'' as shorthand), (2) the country where the second largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (referred to as ''country of smelt for the second largest volume of primary aluminum'' or ''country of smelt'' as shorthand), and (3) the country where the aluminum used in the imported aluminum product was most recently cast (referred to as ''country of most recent cast'' for shorthand). These fields are further described under § 361.103(c)(3).

Section 361.103(c)(3)(i)(A) defines the field for the country of smelt for the largest volume of primary aluminum as the country where the largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall–Héroult process. Recognizing that importers may have some initial difficulties in securing this information, § 361.103(c)(3)(i)(C) allows filers to state ''unknown'' for this field on the license application on a temporary basis. Similar to the country of smelt for the largest volume of

[3] *See Steel Import Monitoring and Analysis System,* Final Rule, 70 FR 72373 (December 5, 2005); *Modification of Regulations Regarding the Steel Import Monitoring and Analysis System,* 85 FR 56162 (September 11, 2020) (*SIMA Modification*).

[4] *Aluminum Import Monitoring and Analysis System: Delay of Effective Date,* 86 FR 7237 (January 27, 2021) (*Delay of Effective Date Notification).*

[5] These comments can be found by searching for the *Final Rule* (Docket No. ITA–2021–0001) on the Federal eRulemaking portal at *http://www.regulations.gov.*

[6] *Aluminum Import Monitoring and Analysis System: Stay and Delay of Compliance Date,* 86 FR 17058 (April 1, 2021) (*Stay and Delay of Compliance Date Notification).*

[7] For further background and information, *see* the *Final Rule.*

primary aluminum field, § 361.103(c)(3)(ii)(A) defines the field for the country of smelt for the second largest volume of primary aluminum as the country where the second largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall–Héroult process. Section 361.103(c)(3)(ii)(C) allows filers to state ''unknown'' in this field on a temporary basis.

In this document, Commerce is now extending the temporary period (originally set to expire on December 23, 2021) to allow for license applicants to state ''unknown'' in the fields for country(ies) of smelt for the largest and second largest volume of primary aluminum until June 28, 2022. Commerce will begin requiring the requested information for these fields for license applications on or after June 29, 2022, meaning that filers may no longer state ''unknown'' for these fields after that date. Section 361.103(c)(3)(i)(C) and (c)(3)(ii)(C) have been modified to reflect these changes.

Response to Comments Received on the Final Rule

Commerce received four comments on the final rule in response to the *Delay of Effective Date Notification.* In general, all commenters were supportive of the AIM system, which they believe will help provide additional tools for ensuring a fair and competitive U.S. marketplace for aluminum products. The commenters also stated that a robust aluminum monitoring program to effectively and accurately track imports will benefit domestic aluminum companies by helping government officials and industry stakeholders identify trends in trade flows and address aluminum misclassification, transshipment, and evasion of duties. Commerce is thankful for the comments in support and looks forward to an efficient and expeditious roll-out of the AIM system.

Each of the commenters raised specific comments seeking clarification or improvement on some aspects of the AIM system. Below is a summary of the comments, grouped by issue category, followed by Commerce's response.

1. Country(ies) of Smelt and Country of Most Recent Cast Reporting Requirements

a. Clarification of Reporting Requirements

All four commenters generally sought further clarifications regarding the reporting requirements for the license fields for the country(ies) of smelt for the largest and second largest volume of primary aluminum and country of most recent cast.

First, some commenters reiterated comments previously raised in response to the *Proposed Rule* regarding the reference ''country of pouring'' instead of ''country of most recent cast'' as was adopted in the *Final Rule.*

Second, one commenter requested confirmation that the AIM system and aluminum licensing requirements only apply to imported aluminum products.

Third, one commenter argued that Commerce must track the origin of primary and secondary aluminum used in semi-finished products. Another commenter also argued that Commerce should be tracking the source of primary aluminum used in downstream aluminum products.

Fourth, one commenter requested that Commerce clarify that country(ies) of smelt information can be tracked and reported using traditional inventory management methods (recognized under Generally Accepted Accounting Principles (GAAP)).

Fifth, one commenter argued that Commerce should require the identification of the manufacturer of the aluminum, rather than permitting parties to state ''unknown'' for this field on the license form. This commenter states that aluminum products are always tagged to identify the manufacturer, so the U.S. importer will always know this information. Therefore, this commenter argues that there is no need for leeway in identifying the aluminum manufacturer.

Sixth, one commenter requested that country of smelt information not be required to be reported in defined situations where there is no risk of circumvention; where the burdens and costs related to tracking smelt details on a coil- or unit-specific basis are not justified; and where the collection of country of smelt information will not add any material insight to the trade in aluminum. This commenter provided two examples. First, for products that are hot-rolled in the United States, exported for further processing or manufacturing that did not include additional hot-rolling, and then re-imported back into the United States, the commenter explained that under the United States-Canada-Mexico Agreement (USMCA), such goods retain their U.S. origin and need not follow the requirements of the U.S. Goods Returned procedures under Chapter 98 of the Harmonized Tariff Schedule of the United States (HTSUS). The commenter argues that to impose coil-specific smelt-country tracking obligations on such goods that have been hot-rolled in the United States (when U.S. manufacturing has already transformed a downstream aluminum product that is several steps removed from smelting operations) would run counter to Commerce's policy of promoting U.S. manufacturing. In addition, the commenter states that requiring such tracking would in turn require significant investment of resources that will affect prices or require U.S. manufacturers to opt not to provide smelt certifications to their foreign customers. Second, this commentor also suggested that country of smelt information not be required if inputs other than primary-smelted aluminum account for 80 percent or more of the metal content of the aluminum product.

Response: With respect to the first issue raised, as explained in the *Final Rule* and as noted above, pursuant to § 361.103(c)(1)(xiii), (xiv), and (xv) Commerce will require the aluminum import license applicant to provide information in three separate fields: (1) The country where the largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (referred to as ''country of smelt for the largest volume of primary aluminum'' as shorthand), (2) the country where the second largest volume of primary aluminum used in the manufacture of the imported aluminum product was smelted (referred to as ''country of smelt for the second largest volume of primary aluminum'' as shorthand), and (3) the country where the aluminum used in the imported aluminum product was most recently cast (referred to as ''country of most recent cast'' for shorthand). As discussed in the *Final Rule,* Commerce has codified detailed definitions of these terms in § 361.103(c)(3). Commerce recognizes that use of the phrase ''country of pouring'' in the *Proposed Rule* did not accurately reflect terminology utilized in the aluminum industry and may have caused some confusion. Therefore, this term is not used in the *Final Rule.* Instead, Commerce refers to the ''country of most recent cast.'' This is explained in the *Final Rule,* 85 FR at 83809–10, and further defined in § 361.103(c)(3)(iii).

On the second issue raised, Commerce confirms that licenses are only required for imported covered aluminum products coming into the United States. Specifically, as explained in the *Final Rule* and § 361.101(b), licenses will be required for imports of basic aluminum products that are entered, or withdrawn for consumption from a bonded warehouse, into the commerce of the United States under

the following Harmonized Tariff Schedule (HTS) codes: 7601, 7604, 7605, 7606, 7607, 7608, 7609, 7616.99.51.60, and 7616.99.51.70.[8] An aluminum import license will be required for every entry of covered aluminum products under these HTS codes, regardless of origin. However, as described in § 361.101(c), (d), and (e), entries from foreign trade zones into the commerce of the United States; temporary import bond (TIB) entries; transportation & exportation (T&E) entries; entries into a bonded warehouse; and informal entries, are exempt from the license requirement.[9]

On the third issue raised, tracking the origin of primary and secondary aluminum used in semi-finished products and tracking the source of primary aluminum used in downstream aluminum products, we clarify the following. The ''product'' that is imported will be classified under one of the HTS codes identified above and may take the form of either a semi-finished product (slab, billets, or ingots) or a finished aluminum product. This is the ''final solid state'' of the product upon importation.

Therefore, the field in the license application requiring identification of the country where the largest volume of primary aluminum used in the manufacture of the imported product (either a semi-finished or finished product) was smelted applies to the country where the largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall–Héroult process (*see* § 361.103(c)(3)(i)(A)).[10] Likewise, the field in the license application requiring identification of the country where the second largest volume of primary aluminum used in the manufacture of the imported product (either semi-finished or finished product) was smelted applies to the country where the second largest volume of new aluminum metal is produced from alumina (or aluminum oxide) by the electrolytic Hall–Héroult process (*see* § 361.103(c)(3)(ii)(A)).[11] And the field in the license application requiring identification of the country where the imported product (either semi-finished or finished product) was most recently cast applies to the country where the aluminum (with or without alloying elements) was last liquified by heat and cast into a solid state (*see* § 361.103(c)(3)(iii)(A)).[12] As noted above, this final solid state can take the form of either a semi-finished product (slab, billets or ingots) or a finished aluminum product.

Thus, to maximize the benefits of import monitoring for the full value chain of the U.S. aluminum industry, Commerce is requiring that license applicants identify the country where primary aluminum inputs for imported aluminum products were smelted and the country where intermediate processing or casting of semi-finished or finished products occurred. Tracking this information will be valuable in understanding supply chain developments and trade distortions with data released through the public AIM monitor. Commerce also recognizes that imported aluminum products may only contain one source of primary aluminum or may be comprised partially or entirely of secondary aluminum. Consequently, Commerce allows users to state that the country(ies) of smelt fields are ''not applicable'' in these cases. Commerce understands that secondary aluminum can be recycled and remelted endlessly and is not attempting to track secondary inputs.

However, as discussed in the *Final Rule,* the country of most recent cast is information that generally is readily available to the importer or its broker and is most likely to be identified in the import documentation accompanying the entry summary to be filed with CBP (invoices, lab reports, etc.). In some instances, the country of most recent cast may be identified as the country of origin. Further, because a semi-finished or finished aluminum product could go through the casting process multiple times before importation into the United States, the field only requests the country of most recent cast. For these reasons, filers may not state ''not applicable'' or ''unknown'' for this field.[13]

On the fourth issue raised, Commerce does not require filers to track and report country(ies) of smelt information using any particular inventory management method. As with all other reported information in licenses, applicants are expected to certify that the information is accurate and complete to the best of their knowledge.[14] The manner in which parties track information or maintain internal records to ensure accuracy and completeness in their reporting is left up to parties.

On the fifth issue raised, the AIM system will also allow for license applicants to indicate that the manufacturer is ''unknown.'' While the option of identifying the manufacturer as unknown is permitted, Commerce does require license applicants certify that they have provided information that is accurate and complete to the best of their knowledge and, accordingly, expects applicants to identify the manufacturer if known. Additionally, Commerce notes that manufacturer information is not released publicly. The public AIM monitor only releases aggregated import data that does not include business proprietary information or information that could be used to identify license applicants.

On the sixth issue raised, we are not accepting the commenter's request that we exempt certain types of entries from the country(ies) of smelt reporting requirement. The commenter argues that in certain situations such information should not be requested because there is no risk of circumvention; the burdens and costs related to tracking smelt details on a coil- or unit-specific basis are not justified; and the collection of country of smelt information will not add any material insight to the trade in aluminum. This commenter provided two examples—entries of hot-rolled coil smelted in the United States, further processed abroad, and returned under the U.S. Good Returned program and entries where the non-primary aluminum makes up 80 percent or more of the aluminum in the product.

As an initial matter, these comments have been raised for the first time in response to the *Final Rule,* and no other commenter has had an opportunity to consider these exemption requests. Therefore, it would not be appropriate to adopt these exemptions at this time,

[8] As discussed in § 361.101(a)(1), a list of the products covered by the AIM system by HTS codes can be obtained on the AIM system website. The HTS codes, which are maintained by the U.S. International Trade Commission (ITC), may be updated periodically to reflect revisions to the codes.

[9] *See Final Rule,* 85 FR at 83808–12.

[10] In accordance with § 361.103(c)(3)(i)(B), filers may state ''not applicable'' for this field if the product contains only secondary aluminum and no primary aluminum. Secondary aluminum is defined as aluminum metal that is produced from recycled aluminum scrap through a re-melting process. As explained in this document and § 361.103(c)(3)(i)(C), filers may state ''unknown'' for this field for license applications up to June 28, 2022.

[11] In accordance with § 361.103(c)(3)(ii)(B), filers may state ''not applicable'' for this field if the product contains only secondary aluminum and no primary aluminum. Secondary aluminum is defined as aluminum metal that is produced from recycled aluminum scrap through a re-melting process. As explained in this document and § 361.103(c)(3)(ii)(C), filers may state ''unknown'' for this field for license applications up to June 28, 2022.

[12] In accordance with § 361.103(c)(3)(iii)(B) and (C), filers may not state ''not applicable'' or ''unknown'' for this field.

[13] S*ee Final Rule,* 85 FR at 83809–10.

[14] Sample license forms can be found at *https://www.trade.gov/updates-aluminum-import-licensing.*

without the benefit of additional party comments. With that, we encourage parties to consider these issues in the next request for comments on the AIM system.

More generally, we disagree that tracking these types of entries will provide no material insight into the aluminum trade. As has been our experience with SIMA, tracking products with different origin, including U.S. origin, along with products with other origins, is an important function of the monitor and will assist both the trade and Commerce in viewing trends on a near real-time basis. Additionally, tracking potential circumvention trends is not the only purpose for which Commerce is adopting the AIM system. Further, as explained in the *Final Rule,* Commerce recognizes that there may be some amount of burden to parties, who may not currently track country(ies) of smelt information in the normal course of business. To help alleviate any concerns, Commerce is allowing parties additional time to track this information, extending the temporary period to report ''unknown'' for these fields to June 28, 2022, as explained in this document.[15]

We reiterate that, as discussed in the *Final Rule,* after the AIM system is in place, Commerce will seek additional comments from parties on potential improvements or changes to the system in a subsequent document. Parties may further comment on these issues, or any issues with the AIM system, at that time.

b. Delayed Collection of Country of Smelt Information

One commenter requested that the requirement to report the country of smelt and country of second largest smelt be delayed for an additional year beyond the original effective date of December 24, 2021. This commenter noted that the requirement to identify the country or countries where primary aluminum used in the manufacture of aluminum products was smelted was not made clear in the *Proposed Rule.* This commenter further explained that this new data field requirement is not currently captured in their existing systems that are used to manage and track all purchases. While this system does track country of origin it is not tied to country of smelt information and tracking it correctly will require substantial reprogramming for the party. To avoid imposing an undue burden, this commenter consequently requested that Commerce delay the reporting requirement for an additional year.

Response: As stated above in the Explanation of Changes from the Final Rule section, Commerce is granting the commenter's request, in part, and will allow license applicants to continue to state ''unknown'' for the country of largest smelt and country of second largest smelt license fields until June 28, 2022. Commerce recognizes that importers may have initial difficulty in securing the information necessary to complete the fields for the country of smelt for the largest and second largest volume of primary aluminum. As such, Commerce will allow filers to state ''unknown'' in these fields on a temporary basis. Specifically, ''unknown'' may be stated for a period of one year from the beginning of compliance with the *Final Rule* (*i.e.,* up to June 28, 2022) to enable license applicants sufficient time to gather the requisite information. Effective one year from the beginning of compliance of the *Final Rule,* June 29, 2022, filers will no longer be able to state ''unknown'' and will be required to provide the requested information for this field.

This places importers on notice that they need to start collecting the necessary documentation that tracks this information within their supply chains. It will also allow the AIM system to be launched expeditiously while providing importers an adjustment period to start collecting this information.

2. Expanding the Scope of AIM Program

One commenter requested that Commerce consider expanding the scope of the AIM licensing program to include all products classifiable of Chapter 76 of the harmonized tariff schedule.

Response: The AIM system will not require import license for aluminum products other than those covered in the *Final Rule.* However, Commerce has considered the commenter's assertion that collecting data on all aluminum products will support the entire aluminum industry. Accordingly, as discussed in the *Final Rule,* after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent document. Parties may comment on the inclusion of these products in the AIM system's import license requirement at that time. Furthermore, at the sub-regulatory level, Commerce will consider adding additional product groups to the public AIM monitor, beyond the HTS categories covered by the license requirement, which will be based only on publicly available import data. This would be done in a similar manner as the inclusion of aluminum scrap data in the public AIM monitor.

3. Further Documentation and Additional Requirements

One commenter requested that Commerce require submission of mill test certificates for various inputs consumed at every stage of production of aluminum products. The commenter stated that this documentation is readily available and should be required with every shipment to verify the location of production and protect against evasion. Another commenter argued that, to inhibit transshipment, the AIM system should require submission of licenses and supporting documentation to CBP, not simply the license number.

Response: As explained in the *Final Rule,* Commerce will not adopt these proposals at this time. Although these suggestions have merit and warrant further consideration, adopting them at this time would create additional burdens on which the public has not had an opportunity to comment. In addition, some of these suggestions would necessitate further inter-agency consultation and coordination, which has not been considered for purposes of this rulemaking. Thus, there is no requirement to present physical copies of the license forms or any other documentation at the time of entry summary. However, documents must be maintained in accordance with CBP's normal requirements.[16]

In addition, we recognize that the AIM system is modeled on the SIMA system, and CBP requires steel importers to provide mill test certificates for steel imports.[17] While CBP could be asked to consider requiring the collection of mill test certificates for covered aluminum products in the future, as they currently do for steel, that requirement is outside of the scope of this rulemaking. That said, as discussed above, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent document. Parties may further comment on these issues at that time.

4. Bonded Warehouses

One commenter requested that the AIM system should require licenses for

[15] *See Final Rule,* 85 FR at 83810.

[16] *Id.,* 85 FR at 83811.

[17] *See SIMA Modification,* 85 FR at 56166 (''[T]he mill test certification is currently required by CBP for entry purposes, in accordance with 19 CFR 141.89 and 142.6, and Commerce expects that the mill test certification would be included with the standard sales documentation for steel mill imports and therefore would be readily available to the importer.'')

bonded warehouses and remove the exemption in § 306.101(e) that only requires a license for goods that are withdrawn from the warehouse for consumption.

Response: This comment was raised in response to the *Proposed Rule* and Commerce addressed it in the *Final Rule.* We have not reconsidered our position from the *Final Rule* that Commerce will not require users to obtain aluminum import licenses for entry into bonded warehouses. As explained in the *Final Rule,* only entries of covered aluminum products withdrawn for consumption from bonded warehouses will require a license at the entry summary. Entry into bonded warehouses does not constitute an entry for consumption as provided in § 361.101(b) and (e), and some of the aluminum could subsequently be re-exported from bonded warehouses. Additionally, Commerce also finds that including these shipments in the aluminum license data would likely overestimate monthly imports of aluminum for consumption. Furthermore, this would require users to obtain two separate licenses for importation into bonded warehouses and importation into consumption. This would increase the public burden and further reduce the accuracy of AIM licenses because the system would double-count these licenses.[18]

Classifications

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this is a significant rulemaking under Executive Order 12866, but it is not economically significant.

Executive Order 13132

This rulemaking does not contain policies with federalism implications as that term is defined in section 1(a) of Executive Order 13132, dated August 4, 1999 (64 FR 43255 (August 10, 1999)).

Paperwork Reduction Act

This rule contains a collection of information subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35 (PRA). The requirements have been approved by OMB.

OMB Control Number: 0625–0279.

Expiration: 1/31/2024.

ITA Number: ITA–4142a (regular license); ITA–4142b (low-value license).

Type of Review: Regular Submission.

Affected Public: Business or other for-profit.

Estimated Number of Registered Users: 1,750.

Estimated Time per Response: less than 10.5 minutes.

Estimated Total Annual Burden Hours: 48,749 hours.

Estimated Total Annual Costs: $0.00.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. As discussed above, after the AIM system is in place, Commerce will seek additional comment from parties on potential improvements or changes to the system in a subsequent document. Parties may further comment on this collection of information at that time.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this rule if adopted, would not have a significant economic impact on a substantial number of small entities as that term is defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA). The factual basis for the certification is found in the *Proposed Rule* and *Final Rule* and is not repeated here. No comments were received on the certification or the economic impacts of this action. As a result, no final regulatory flexibility analysis is required, and none was prepared.

List of Subjects in 19 CFR Part 361

Administrative practice and procedure, Aluminum, Business and industry, Imports, Reporting and recordkeeping requirements.

Dated: May 17, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

For the reasons stated in the preamble, the Department of Commerce amends 19 CFR part 361 as follows:

PART 361—ALUMINUM IMPORT MONITORING AND ANALYSIS SYSTEM

■ 1. The authority citation for part 361 continues to read as follows:

Authority: 13 U.S.C. 301(a) and 302.

■ 2. In § 361.103, revise paragraphs (c)(3)(i)(C) and (c)(3)(ii)(C) to read as follows:

§ 351.103 Automatic issuance of import licenses.

* * * * *

(c) * * *

(3) * * *

(i) * * *

(C) For license applications up to June 28, 2022, filers may state ''unknown'' for this field. Effective June 29, 2022, filers may not state ''unknown'' for this field.

(ii) * * *

(C) For license applications up to June 28, 2022, filers may state ''unknown'' for this field. Effective June 29, 2022, filers may not state ''unknown'' for this field.

* * * * *

[FR Doc. 2021–10747 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–DS–P

[18] *See Final Rule,* 85 FR at 83812.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2021–0255]

Special Local Regulations; Great Western Tube Float, Parker, AZ

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the special local regulation for the Great Western Tube Float on June 12, 2021. These special local regulations are necessary to provide for the safety of the participants, crew, spectators, sponsor vessels, and general users of the waterway. Our regulation for marine events within the Eleventh Coast Guard District identifies the regulated area for this event in Parker, AZ. During the enforcement period, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area unless authorized by the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 100.1102 Table 1, Item 9 will be enforced from 7 a.m. to 6 p.m. on June 12, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulations in 33 CFR 100.1102 Table 1, Item 9 of that section for the Great Western Tube Float in Parker, AZ from 7 a.m. to 6 p.m. on June 12, 2021. This

enforcement action is being taken to provide for the safety of life on navigable waterways during the event. Our regulation for marine events within the Eleventh Coast Guard District, § 100.1102, specifies the location of the regulated area for the Great Western Tube Float which encompasses the navigable waters of the Colorado River from Buckskin Mountain State Park to La Paz County Park. Under the provisions of § 100.1102, persons and vessels are prohibited from anchoring, blocking, loitering, or impeding within this regulated area, unless authorized by the Captain of the Port, or his designated representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners and local advertising by the event sponsor.

If the Captain of the Port Sector San Diego or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: May 14, 2021.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2021–10738 Filed 5–20–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2021–0012]

RIN 1625–AA09

Drawbridge Operation Regulation; Savannah River, Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the operating schedule that governs the Houlihan (US 17) Bridge, across the Savannah River, mile 21.6, in Savannah, Georgia, and the Seaboard System Railroad Bridge, across the Savannah River, mile 27.4, near Hardeeville, South Carolina. This action will increase the advance notification time for an opening at the bridges. The action would also update the name and geographic location of the bridges.

DATES: This rule is effective June 21, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov*. Type USCG–2021–0012 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Alexander McConnell, with Coast Guard Marine Safety Unit Savannah; telephone 912–652–4353, x240, email *Alexander.W.McConnell@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code
GDOT Georgia Department of Transportation
SR State Route
MHW Mean High Water

II. Background Information and Regulatory History

On February 25, 2021, the Coast Guard published a Notice of Proposed Rulemaking entitled Drawbridge Operation Regulation; Savannah River, Savannah, GA in the **Federal Register** (86 FR 11478). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this regulatory change. During the comment period that ended April 12, 2021, we received one comment which is addressed in Section IV of this Final Rule.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under the authority of 33 U.S.C. 499. The GDOT requested the Coast Guard consider changing the advance notification requirement for an opening from three hours to 24 hours at the Houlihan (US 17) Bridge. The Coast Guard also considered changing the advance notification requirement for the Seaboard System Railroad Bridge, located approximately six miles upstream of the Houlihan (US 17) Bridge, to a 24 hour advance notice providing consistency between the bridges.

The Houlihan (US 17) Bridge across the Savannah River, mile 21.6, in Savannah, Georgia, is a swing bridge with a vertical clearance of seven feet at MHW in the closed to navigation position and a horizontal clearance of 90 feet between the fender system. The operating schedule for the bridge is set forth in 33 CFR 117.371(a).

The Seaboard System Railroad Bridge across the Savannah River, mile 27.4, near Hardeeville, South Carolina, is a single-leaf bascule bridge with a vertical clearance of seven feet at MHW in the closed to navigation position and a horizontal clearance of 90 feet between the fender system. The operating schedule for the bridge is set forth in 33 CFR 117.371(b).

IV. Discussion of Comments, Changes and the Final Rule

The Coast Guard is changing the operating schedule that governs the Houlihan (US 17) Bridge across the Savannah River, mile 21.6, in Savannah, Georgia and the Seaboard System Railroad Bridge across the Savannah River, mile 27.4, near Hardeeville, South Carolina. The bridges currently operate with a three hour advance notice but will now require a 24 hour advance notice for an opening. Additionally, the name and geographic location of the bridges will be updated.

One comment was received. The commenter is in support of the changes as it will benefit the maintenance workers on the bridge and it does not pose a threat to the environment. Also stated by the commenter, ''This action does not require the completion of an EIS under NEPA because it is not a major federal action and it does not pose a significant effect on the human environment.'' Based on the comment received, there are no changes to the regulatory text.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice. Vessels that can transit under the bridge without an opening may do so at any time.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Government

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

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.

List of Subjects in 33 CFR Part 117

Bridges.

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Amend § 117.371 by revising paragraphs (a) and (b) to read as follows:

§ 117.371 Savannah River.

(a) The draw of the Houlihan (US 17) Bridge, mile 21.6 at Port Wentworth, Georgia, shall open if at least a 24-hour advance notice is given. Openings can be arranged by contacting Georgia Department of Transportation Savannah Area Office at 1–912–651–2144.

(b) The draw of the CSX Transportation Railroad Bridge, mile 27.4 near Hardeeville, South Carolina, shall open if at least a 24-hour advance notice is given. Openings can be arranged by contacting CSX Transportation at 1–800–232–0144.

* * * * *

Dated: May 17, 2021.

Eric C. Jones,

Rear Admiral, U.S. Coast Guard, Commander Seventh Coast Guard District.

[FR Doc. 2021–10739 Filed 5–20–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0083]

RIN 1625–AA00

Safety Zone; Fincantieri Blasting Project; Menominee River, Menominee, MI and Marinette, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Menominee River in Marinette, WI within 1,000 feet of a blasting area. This action is necessary to provide for the safety of life on these navigable waters during the daily blasting at the southern bank of the Menominee River near the Fincantieri Marinette Marine facility. This rulemaking will restrict usage by persons and vessels within the safety zone. At no time during the effective period may a vessel or person pass between the construction barges and southern bank of Menominee River. Also during the entire effective period, all vessels and persons are prohibited from transiting the safety zone at speeds that would create a wake. Additionally, during blasting operations, lasting approximately 15 minutes each evening, no vessel or persons may enter the safety zone. These restrictions would apply to all vessels and persons during the effective period unless authorized by the Captain of the Port Lake Michigan or a designated representative.

DATES: This rule is effective without actual notice from May 21, 2021 through November 30, 2021. For the purposes of enforcement, actual notice will be used from May 10, 2021 until May 21, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0083 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Chief Petty Officer Jeromy Sherrill, Sector Lake Michigan Waterways Management Division, U.S. Coast Guard; telephone 414–747–7148, email *Jeromy.N.Sherrill@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On February 26, 2021, Roen Salvage Company notified the Coast Guard that it will be conducting daily blasting operations beginning April 1, 2021 to November 30, 2021, for an approximate 15 minute period occurring between 3:30 p.m. to 5:30 p.m. in conjunction with a construction project. The blasting will take place on the southern bank of the Menominee River near the Fincantieri Marinette Marine facility. The Captain of the Port Lake Michigan (COTP) has determined that potential hazards associated with the blasting would be a safety concern for anyone within a 1,000 foot radius of the blasting site. The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 1,000-foot radius of the blasting site before, during, and after the scheduled event.

In response, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled Safety Zone; Fincantieri Blasting Project; Menominee River, Menominee, MI and Marinette, WI (86 FR 12887). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this project. During the comment period that ended March 22, 2021, we received 00 comments opposed to the regulatory action.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Lake Michigan (COTP) has determined that a safety zone would mitigate the potential hazards associated with the blasting project. The safety zone will last from May 10, 2021 to November 30, 2021 for an approximate 15 minute period occurring daily between 3:30 p.m. to 5:30 p.m. The safety zone will cover all navigable waters within 1,000 foot radius of the blasting site which will be on the southern bank of the Menominee River at the Fincantieri Ship Yard in Marinette, WI. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the daily blasting event. No vessel or persons will be permitted to enter the safety zone during blasting operations. During non-blasting times, no vessel or persons will be permitted to transit the area at speeds that would create a wake. Additionally, no vessel or persons will be permitted to transit between the construction barges and the southern bank of the Menominee River. No vessel or persons will be allowed to conduct the three preceding activities without obtaining permission from the COTP Lake Michigan or a designated representative.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments opposed to our NPRM published on March 4, 2021. The only change in the regulatory text of this rule from the proposed rule is the delay in the project's start date from April, 2021 to May 10, 2021. The delayed start date is due to operational delays with the construction company. The project end date is unchanged.

This rule establishes a safety zone lasting from May 10, 2021 to November 30, 2021 for an approximate 15 minute period occurring daily between 3:30 p.m. to 5:30 p.m. The safety zone will cover all navigable waters within 1,000 foot radius of the blasting site which will be on the southern bank of the Menominee River at the Fincantieri Ship Yard in Marinette, WI. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the daily blasting event. No vessel or persons will be permitted to enter the safety zone during blasting operations. During non-blasting times, no vessel or persons will be permitted to transit the area at speeds that would create a wake. Additionally, no vessel or persons will be permitted to transit between the construction barges and the southern bank of the Menominee River. No vessel or persons will be allowed to conduct the three preceding activities without obtaining permission from the COTP Lake Michigan or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the characteristics of the safety zone. The safety zone created by

this rule will be relatively small and is designed to minimize its impact on navigable waters. This rule will prohibit entry into certain navigable waters of the Menominee River in Marinette, WI, and it is not anticipated to exceed 15 minutes in duration each day. During non-blasting operations, vessels and persons will be allowed to enter the safety zone at speeds that do not create a wake. Additionally, the exclusion area between the construction barges and southern bank of the river is small and allows for plenty of space within the channel for vessels to transit the area north of the construction barges. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Moreover, under certain conditions vessels and persons may still transit through the safety zone when permitted by the COTP Lake Michigan.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 00 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone that would prohibit vessels and persons from passing through a small area located between the construction barges and the southern bank of the Menominee River, would prohibit entry into the all navigable waters within a 1,000 foot radius of the construction barges for a maximum of 15 minutes per day during blasting activities, and would prohibit vessels and persons from transiting the safety zone at speeds that would create a wake. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0083 to read as follows:

§ 165.T09–0035 Safety Zone; Blasting Project; Menominee River, Marinette, WI.

(a) *Location.* All navigable waters of the Menominee River within 1,000 feet of the blast area on the southern bank of the river at coordinates 43.0705000°N, 086.2346667°.

(b) *Enforcement period.* The safety zone portion of the regulated area described in paragraph (a) is effective

for 15 minutes between 3:30 p.m. and 5:30 p.m. each evening without actual notice from May 21, 2021 through November 30, 2021. For the purposes of enforcement, actual notice will be used from May 10, 2021 until May 21, 2021. The part of the safety zone between the construction barges and the southern bank of the river, and the no-wake zone portion of the regulated area described in paragraph (a) will be in effect continuously without actual notice from May 21, 2021 through November 30, 2021. For the purposes of enforcement, actual notice will be used from May 10, 2021 until May 21, 2021.

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

(2) This safety zone is closed to all vessels and persons, except as may be permitted by the COTP or a designated representative.

(3) The ''designated representative'' of the COTP Lake Michigan is any Coast Guard commissioned, warrant, or petty officer who has been designated by the COTP to act on his or her behalf.

(4) Persons and vessel operators desiring to enter or operate within the safety zone during blasting operations, or at speeds that would create a wake, must contact the COTP Lake Michigan or an on-scene representative to obtain permission to do so. The COTP or an on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the COTP Lake Michigan or an on-scene representative.

Dated: May 17, 2021.

D.P. Montoro,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. 2021–10775 Filed 5–20–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0319]

Safety Zone; Southern California Annual Fireworks for the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the Coronado Glorietta Bay Fourth of July Fireworks on the waters of Glorietta Bay, CA on Sunday, July 4, 2021. The safety zone is necessary to provide for the safety of the participants, spectators, official vessels of the event, and general users of the waterway. Our regulation for the Southern California Annual Firework Events for the San Diego Captain of the Port Zone identifies the regulated area for this event. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of official patrol vessels in the regulated area without the approval of the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 165.1123 will be enforced for the location identified in Item 3 of Table 1 to § 165.1123 from 8 p.m. until 10 p.m. on July 4, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions on this publication, call or email Lieutenant John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulation in 33 CFR 165.1123 for, for the Coronado Glorietta Bay Fourth of July Fireworks regulated area described in Table 1, Item 3 of that section from 8 p.m. until 10 p.m. on July 4, 2021. This action is being taken to provide for the safety of life on navigable waterways during the fireworks event. Our regulation for Southern California Annual Firework Events for the San Diego Captain of the Port Zone, § 165.1123, identifies the regulated area for the Coronado Glorietta Bay Fourth of July Fireworks event which encompasses a portion of Glorietta Bay. Under the provisions of § 165.1123, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port, or his designated representative. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or Local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners, marine information broadcasts, and local advertising by the event sponsor.

If the Captain of the Port or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: May 14, 2021.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2021–10741 Filed 5–20–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2021–0321]

Safety Zone; Southern California Annual Firework Events for the San Diego Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zones for the Big Bay Boom Fourth of July Fireworks on the waters of San Diego Bay, CA on Sunday, July 4, 2021. The safety zones are necessary to provide for the safety of the participants, spectators, official vessels of the event, and general users of the waterway. Our regulation for the Southern California Annual Firework Events for the San Diego Captain of the Port Zone identifies the regulated areas for this event. During the enforcement period, no spectators shall anchor, block, loiter in, or impede the transit of official patrol vessels in the regulated areas without the approval of the Captain of the Port, or his designated representative.

DATES: The regulations in 33 CFR 165.1123 will be enforced for the Big Bay Boom Fourth of July Fireworks regulated areas listed in item 5 in the table to § 165.1123 from 8 p.m. until 10 p.m. on July 4, 2021.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Lieutenant John Santorum, Waterways Management, U.S. Coast Guard Sector San Diego, CA; telephone 619–278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulations in 33 CFR 165.1123 for the Big Bay Boom Fourth of July Fireworks regulated area from 8 p.m. until 10 p.m. on July 4, 2021. This action is being taken to provide for the safety of life on navigable waterways during the fireworks event. Our regulation for Southern California Annual Firework Events for the San Diego Captain of the Port Zone, § 165.1123, identifies the regulated areas for the Big Bay Boom Fourth of July Fireworks event which encompasses multiple portions of San Diego Bay. Under the provisions of § 165.1123, a vessel may not enter the regulated area, unless it receives permission from the Captain of the Port, or his designated representative. Spectator vessels may safely transit outside the regulated area but may not anchor, block, loiter, or impede the transit of participants or official patrol vessels. The Coast Guard may be assisted by other Federal, State, or Local law enforcement agencies in enforcing this regulation.

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners, marine information broadcasts, and local advertising by the event sponsor.

If the Captain of the Port or his designated representative determines that the regulated area need not be enforced for the full duration stated on this document, he or she may use a Broadcast Notice to Mariners or other communications coordinated with the event sponsor to grant general permission to enter the regulated area.

Dated: May 14, 2021.

T.J. Barelli,

Captain, U.S. Coast Guard, Captain of the Port San Diego.

[FR Doc. 2021–10737 Filed 5–20–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0440; FRL–10022–39–Region 9]

Clean Air Plans; 2008 8-Hour Ozone Nonattainment Area Requirements; Western Nevada County, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve, or conditionally approve, all or portions of a state implementation plan (SIP) revision submitted by the State of California to meet Clean Air Act (CAA or ''Act'') requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS or ''standards'') in the Nevada County (Western part), California ozone nonattainment area (''Western Nevada County''). The SIP revision is the ''Ozone Attainment Plan, Western Nevada County, State Implementation Plan for the 2008 Primary Federal 8-Hour Ozone Standard of .075 ppm'' (''2018 Western Nevada County Ozone Plan'' or ''Plan''). The 2018 Western Nevada County Ozone Plan addresses the ''Serious'' nonattainment area requirements for the 2008 ozone NAAQS, including the requirements for emissions inventories, attainment demonstration, reasonable further progress, reasonably available control measures, and contingency measures, among others; and establishes motor vehicle emissions budgets. The EPA is approving the 2018 Western Nevada County Ozone Plan as meeting all the applicable ozone nonattainment area requirements except for the contingency measure requirement, which the EPA is conditionally approving.

DATES: This rule is effective on June 21, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2019–0440. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: T. Khoi Nguyen, Air Planning Office (AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4120, or by email at *nguyen.thien@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. Summary of the Proposed Action

On January 12, 2021, the EPA proposed to approve, under CAA section 110(k)(3), and to conditionally approve, under CAA section 110(k)(4), a submittal from the California Air Resources Board (CARB) and the Northern Sierra Air Quality Management District (NSAQMD or ''District'') as a revision to the California SIP for the Western Nevada County nonattainment area.[1] The SIP revision is the 2018 Western Nevada County Ozone Plan.[2] We refer to our January 12, 2021, proposed rule as the ''proposed rule.''

In our proposed rule, we provided background information on the ozone standards,[3] area designations, and related SIP revision requirements under the CAA and the EPA's implementing regulations for the 2008 ozone standards, referred to as the 2008 Ozone SIP Requirements Rule (''2008 Ozone SRR'').[4] To summarize, the Western Nevada County ozone nonattainment area is classified as Serious for the 2008 ozone NAAQS, and the 2018 Western Nevada County Ozone Plan was developed to address the statutory and regulatory requirements for revisions to the SIP for the Western Nevada County Serious ozone nonattainment area.

Our proposed conditional approval of the contingency measures element of the 2018 Western Nevada County Ozone Plan relied on specific commitments: (1) From the District to adopt a rule that

[1] 86 FR 2318 (January 12, 2021). The Western Nevada County nonattainment area for the 2008 ozone NAAQS consists of the portion of Nevada County west of the ridge of the Sierra Nevada mountains. For a precise definition of the boundaries of the Western Nevada County 2008 ozone nonattainment area, see 40 CFR 81.305.

[2] Letter dated December 2, 2018, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, U.S. Environmental Protection Agency Region IX. The 2018 Western Nevada County Ozone Plan was submitted electronically through the EPA's State Planning Electronic Collaboration System on December 7, 2018, making this date the effective date of submittal. The Plan was deemed complete by operation of law six months after submittal, on June 7, 2019. Our proposed rule incorrectly identified the December 2, 2018 letter date as the submittal date, and June 2, 2019 as the date that the Plan was deemed complete by operation of law.

[3] The 1-hour ozone NAAQS is 0.12 parts per million (ppm) (one-hour average), the 1997 ozone NAAQS is 0.08 ppm (eight-hour average), and the 2008 ozone NAAQS is 0.075 ppm (eight-hour average).

[4] 2008 Ozone SRR, 80 FR 12264, 12283 (March 6, 2015).

would provide for additional emissions reductions in the event that Western Nevada County fails to meet a reasonable further progress (RFP) milestone or fails to attain the 2008 ozone NAAQS by the applicable attainment date, and (2) from CARB to submit the adopted District rule to the EPA as a SIP revision within 12 months of our final action.[5] For more information on the SIP revision submittals and related commitments, please see our proposed rule.

In our proposed rule, we reviewed the various SIP elements contained in the 2018 Western Nevada County Ozone Plan, evaluated them for compliance with statutory and regulatory requirements, and concluded that they meet all applicable requirements, except for the contingency measure requirement, for which the EPA proposed conditional approval. More specifically, in our proposed rule, we based our proposed actions on the following determinations:

- CARB and the District met all applicable procedural requirements for public notice and hearing prior to the adoption and submittal of the 2018 Western Nevada County Ozone Plan;[6]
- The 2011 base year emissions inventory from the 2018 Western Nevada County Ozone Plan is comprehensive, accurate, and current, and therefore meets the requirements of CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115. Additionally, the future year baseline projections reflect appropriate calculation methods and the latest planning assumptions and are properly supported by the SIP-approved stationary and mobile source measures;[7]
- The process followed by the District to identify reasonably available control measures (RACM) is generally consistent with the EPA's recommendations; the District's rules provide for the implementation of RACM for stationary and area sources of oxides of nitrogen (NO_X) and volatile organic compounds (VOC);[8] CARB and the Nevada County Transportation Commission (NCTC) provide for the implementation of RACM for mobile sources of NO_X and VOC; there are no additional RACM that would advance attainment of the 2008 ozone NAAQS in Western Nevada County by at least one year; and therefore, the 2018 Western Nevada County Ozone Plan provides for the implementation of all RACM as required by CAA section 172(c)(1) and 40 CFR 51.1112(c);[9]
- The photochemical modeling in the 2018 Western Nevada County Ozone Plan shows that existing CARB and District control measures are sufficient to attain the 2008 ozone NAAQS by the applicable attainment date in Western Nevada County; given the documentation in the 2018 Western Nevada County Ozone Plan of modeling procedures and good model performance, the modeling is adequate to support the attainment demonstration; and therefore the 2018 Western Nevada County Ozone Plan meets the attainment demonstration requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108;[10]
- The 15 percent rate-of-progress (ROP) demonstration element in the 2018 Western Nevada County Ozone Plan meets the requirements of CAA section 182(b)(1);[11]
- The RFP demonstration in the 2018 Western Nevada County Ozone Plan provides for emissions reductions of VOC or NO_X of at least 3 percent per year on average for each three-year period, beginning 6 years after the baseline year until the attainment date, and thereby meets the requirements of CAA sections 172(c)(2) and 182(c)(2)(B) and 40 CFR 51.1110(a)(2)(ii);[12]
- The motor vehicle emissions budgets in the 2018 Western Nevada County Ozone Plan are consistent with the RFP demonstration, are clearly identified and precisely quantified, and meet all other applicable statutory and regulatory requirements in 40 CFR 93.118(e), including the adequacy criteria in 40 CFR 93.118(e)(4) and (5);[13] and
- Through previous EPA approvals of the 1993 Photochemical Assessment Monitoring Station SIP revision, the ''Annual Network Plan Covering Monitoring Operations in 25 California Air Districts, July 2020'' with respect to the Western Nevada County element,[14] and CARB's enhanced monitoring plan submittal for Western Nevada County,[15] the enhanced monitoring requirements under CAA section 182(c)(1) and 40 CFR 51.1102 for Western Nevada County have been met.[16]

In light of the decision from the Ninth Circuit Court of Appeals in *Bahr* v. *EPA* (''*Bahr*''),[17] the District[18] and CARB[19] committed to supplement the contingency measure element through submission, as a SIP revision (within one year of our final conditional approval action), of a revised District rule or rules that would add new limits or other requirements if an RFP milestone is not met or if the area fails to attain the 2008 ozone NAAQS by the applicable attainment date.[20] The EPA proposed to conditionally approve the contingency measure element as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9).

For the emissions statement element, the proposed rule states that District Rule 513, ''Emissions Statements and Recordkeeping,'' approved as a revision to the California SIP on June 21, 2017,[21] fulfills the relevant emissions statement requirements of CAA section 182(a)(3)(B)(i).[22] Accordingly, the emissions statement element was previously satisfied through the EPA's approval of Rule 513 on June 21, 2017. However, the EPA's December 11, 2017 finding of failure to submit action incorrectly identified the emissions statement element for Western Nevada County as not having been submitted.[23] Additionally, we note that language in

[5] Letter dated November 16, 2020, from Richard Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX. CARB's letter also forwarded the District's commitment letter to the EPA. The District's letter is dated October 26, 2020, from Gretchen Bennitt, NSAQMD Air Pollution Control Officer, to Richard Corey, CARB Executive Officer.

[6] 86 FR 2318, 2321.

[7] Id. at 2321–2322 and 2326–2330.

[8] Ground-level ozone pollution is formed from the reaction of VOC and NO_X in the presence of sunlight. CARB refers to reactive organic gases (ROG) in some of its ozone-related submittals. The CAA and the EPA's regulations refer to VOC, rather than ROG, but both terms cover essentially the same set of gases. In this final rule, we use the term VOC to refer to this set of gases.

[9] 86 FR 2318, 2323–2326.

[10] Id. at 2326–2328.

[11] Id. at 2330.

[12] Id. at 2330–2332.

[13] Id. at 2334–2335.

[14] Letter dated November 5, 2020, from Gwen Yoshimura, Manager, Air Quality Analysis Office, EPA Region IX, to Ravi Ramalingam, Chief, Consumer Products and Air Quality Assessment Branch, Air Quality Planning and Science Division, CARB.

[15] Letter dated November 9, 2020, from Dr. Michael T. Benjamin, Chief, Air Quality Planning and Science Division, CARB, to Meredith Kurpius, Assistant Director, EPA Region IX, enclosing the ''2020 Monitoring Network Assessment (October 2020).'' The assessment includes a five-year network assessment and an updated enhanced monitoring plan, as required by 40 CFR 58, Appendix D, Section 5(a).

[16] 86 FR 2318, 2336.

[17] *Bahr* v. *EPA,* 836 F.3d 1218 (9th Cir. 2016) (rejecting early-implementation of contingency measures and concluding that the contingency measure requirement of CAA section 172(c)(9) can only be satisfied by a measure that takes effect at the time the area fails to make RFP or attain by the applicable attainment date, not before).

[18] Letter dated October 26, 2020, from Gretchen Bennitt, NSAQMD Air Pollution Control Officer, to Richard Corey, CARB Executive Officer.

[19] Letter dated November 16, 2020, from Richard Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX. CARB's letter also forwarded the District's commitment letter to the EPA.

[20] 86 FR 2318, 2332–2333.

[21] 82 FR 28240 (June 21, 2017).

[22] 86 FR 2318, 2323.

[23] 82 FR 58118 (December 11, 2017).

the proposed rule stating that the EPA was ''propos[ing] to find'' that Rule 513 meets the emissions statement requirements could be read to indicate that the EPA was proposing to address this element in the proposed rule. Therefore, we now clarify that the EPA's June 21, 2017 approval of Rule 513 satisfied the emissions statement element for Western Nevada County prior to the finding of failure to submit action and prior to the proposed rule.[24]

For the clean fuels fleet program element, the proposed rule states that through the 1994 ''Opt-Out Program'' SIP revision, the clean fuels fleet program requirements in CAA sections 182(c)(4) and 246 and 40 CFR 51.1102 for Western Nevada County have been met with respect to the 2008 ozone NAAQS.[25] However, CAA section 246(a)(3) applies only to certain ozone nonattainment areas with a 1980 population of 250,000 or more. As indicated in our proposed rule, Western Nevada County has a population of 83,000,[26] and the area's population was below 250,000 in 1980.[27] Therefore, we now clarify that Western Nevada County is not subject to the clean fuels fleet program element for the 2008 ozone NAAQS.

Please see our proposed rule for more information concerning the background for this action and for a more detailed discussion of the rationale for approval or conditional approval of the above-listed elements of the 2018 Western Nevada County Ozone Plan.

II. Public Comments and EPA Responses

The public comment period on the proposed rule opened on January 12, 2021, the date of its publication in the **Federal Register**, and closed on February 11, 2021. During this period, the EPA received one comment letter submitted by Air Law for All, Ltd. on behalf of the Center for Biological Diversity and the Center for Environmental Health (collectively referred to herein as ''CBD''). We address CBD's comments in the following paragraphs of this final rule.

Comment #1: CBD asserts that the EPA has conflated the requirements for contingency measures under subparts 1 and 2 of part D of title I of the CAA. CBD distinguishes the generally applicable subpart 1 RFP requirements for attainment plans under section 172(c)(2) (the commenter refers to these as ''attainment RFP'' requirements) from the subpart 2 RFP requirements applicable to ''Moderate'' and above and also Serious and above ozone nonattainment areas under CAA 182(b)(1)(A)(i) and 182(c)(2)(B) respectively (the commenter refers to these as ''VOC RFP'' requirements). Similarly, CBD distinguishes the subpart 1 contingency measure requirements at CAA 172(c)(9) (which, according to the commenter, are applicable upon a failure to make ''attainment RFP'' or to attain a NAAQS by the applicable attainment date) from the subpart 2 contingency measure requirements at CAA 182(c)(9) (which, according to the commenter, are applicable upon a failure to meet any applicable ''VOC RFP'' milestone). CBD argues that under CAA 182(c)(9), the subpart 2 VOC RFP contingency measure requirements are ''in addition to'' the subpart 1 attainment RFP contingency measures, and that this language compels the EPA to require separate, distinct VOC RFP contingency measures, including not only the triggers for these measures, but the substantive contingency measures themselves. CBD asserts that the subpart 1 RFP and contingency measure requirements are distinct in purpose from the subpart 2 RFP and contingency measure requirements, and that CAA 172(c)(9) attainment RFP contingency measures are intended to make progress towards attainment while a state assesses the additional reductions needed to timely attain the ozone standards, whereas CAA 182(c)(9) VOC RFP contingency measures are intended to make progress in VOC emission reductions if the state elects to trigger them instead of reclassification or adoption of an economic incentive program.

Additionally, CBD asserts that the EPA entirely fails to discuss CAA 182(c)(9)'s clear language, the structural distinction between what the commenter asserts are separate attainment RFP and VOC RFP requirements, and the corresponding need to have distinct attainment RFP contingency measures and VOC RFP contingency measures. Given this distinction, CBD says, the EPA cannot approve the single submitted contingency measure as meeting both attainment RFP and VOC RFP contingency measure requirements. CBD concludes that the EPA must propose for comment its theory for how it can reconcile these distinct RFP requirements in order to approve the submission as meeting the contingency measure requirement for both.

Response to Comment #1: As the commenter notes, Serious ozone nonattainment areas are subject to both the general requirements for nonattainment plans in subpart 1, and the specific requirements for ozone areas in subpart 2, including the requirements related to RFP and contingency measures. This is consistent with the structure of the CAA as modified under the 1990 amendments, which introduced additional subparts to part D of title I of the CAA to address requirements for specific NAAQS pollutants, including ozone (subpart 2), carbon monoxide (CO) (subpart 3), particulate matter (subpart 4), and sulfur oxides, nitrogen dioxide, and lead (subpart 5).

These subparts apply tailored requirements for these pollutants, including those based on an area's designation and classification, in addition to and often in place of the generally applicable provisions retained in subpart 1. While CAA 172(c)(2) of subpart 1 states only that nonattainment plans ''shall require reasonable further progress,'' CAA 182(b)(1) and 182(c)(2)(B) of subpart 2 provide specific percent reduction targets for ozone nonattainment areas to meet the RFP requirement. Put another way, subpart 2 further defines RFP for ozone nonattainment areas by specifying the incremental amount of emissions reduction required by set dates for those areas.[28] In the context of section 182(c)(2)(B), the percentage reduction target constitutes an RFP ''milestone'' as described in section 182(g), by which the EPA determines a Serious ozone nonattainment area's compliance with the RFP requirements. For Serious and above ozone nonattainment areas, CAA section 182(c)(2)(B) defines RFP by setting specific annual percent reductions and allows averaging over a 3-year period, and 182(g) establishes an RFP tracking mechanism called a ''milestone'' such that failure to meet a milestone equates to failure to meet the RFP requirement; they are one and the

[24] 82 FR 28240, 28241 (finding that Rule 513 fulfills relevant emission statement requirements of CAA 182(a)(3)(B)(i)).

[25] See 86 FR 2318, 2335.

[26] See id. at 2320.

[27] See Demographic Information About the County, County of Nevada, California, available at *https://www.mynevadacounty.com/378/Demographic-Information-About-the-County.*

[28] CAA 171(1) defines reasonable further progress as ''such annual incremental reductions in emissions of the relevant air pollutant as are required by this part or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.'' As the commenter notes, the words ''this part'' in the statutory definition of RFP refer to part D of title I of the CAA, which contains both the general requirements in subpart 1 and the pollutant-specific requirements in subparts 2–5 (including the ozone-specific RFP requirements in CAA 182(b)(1) and 182(c)(2)(B) for Serious areas).

same.[29] Similarly, while CAA 172(c)(9) establishes the general requirement for nonattainment plans to provide contingency measures that are triggered in the event that the area fails to make RFP or to attain a NAAQS by the applicable attainment date, CAA 182(c)(9) specifies that a Serious area nonattainment plan for an ozone NAAQS must provide for the implementation of contingency measures to address a failure to meet a milestone, which, per the terms of CAA 182(g), is the same as failing to make RFP. Likewise, for CO nonattainment areas, section 187(a)(3) of subpart 3 addresses contingency measure provisions based on consistency between previously projected and actual or subsequently projected VMT levels, as well as failure to attain by the required deadline. These pollutant-specific contingency measure provisions are described in the EPA's General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (''General Preamble''), which explains that the additional contingency measure provisions in subparts 2 and 3 are similar to the general contingency measure requirements at CAA 172(c)(9), except that the focus is on the planning requirements applicable to ozone and CO.[30]

As CBD notes, CAA 182(c)(9) specifies that plans for ozone nonattainment areas classified as Serious or above must provide for the implementation of contingency measures for failure to meet an ozone RFP milestone, ''[i]n addition to the contingency provisions'' required under CAA 172(c)(9). The commenter argues that this language requires states to submit contingency measures specifically allocated to address the section 182(c)(9) RFP milestones, in addition to other separate contingency measures to address the general RFP and attainment requirements in CAA 172(c)(9). This interpretation is based upon the commenter's related interpretation of the subpart 2 RFP milestones as distinct requirements separate from the general RFP requirements in subpart 1, reflected in the commenter's distinction of ''attainment RFP'' and ''VOC RFP.''

These interpretations run counter to the EPA's longstanding approach to the RFP and contingency measure provisions for the ozone NAAQS, and we disagree that the statutory text compels the commenter's suggested approach. Contrary to the commenter's suggestion, an area that is subject to the subpart 2 RFP milestones is not subject to any separate milestones or requirements for demonstrating ozone RFP under the general RFP provisions in subpart 1. This point is specifically addressed in the General Preamble, which specifies that a state that meets the specific subpart 2 milestones ''will also satisfy the general RFP requirements of section 172(c)(2) for the time period discussed.''[31] This approach is retained in the implementation rules for the 1997 and 2008 ozone NAAQS, which specify RFP milestones for ozone nonattainment areas that incorporate both the general RFP requirements in subpart 1 as well as the ozone-specific RFP requirements in subpart 2, depending on the area's classification and whether the area already has an approved 15 percent rate-of-progress plan for a prior ozone NAAQS.[32]

We disagree with the commenter that the subpart 1 and subpart 2 RFP requirements have distinct purposes that require the EPA to establish separate milestones or requirements for each. Under either subpart, the purpose of RFP is to ensure attainment by the applicable attainment date.[33] As described above, the RFP requirements in CAA 182(b)(1) and 182(c)(2)(B) define specific RFP milestones applicable to, respectively, Moderate and above and Serious and above ozone nonattainment areas, for purposes of demonstrating compliance with the general RFP requirement at CAA 172(c)(2).

Because there are no separate milestones or requirements for demonstrating ozone RFP under the general RFP provisions in subpart 1, and because the purposes of RFP are the same under each subpart, we similarly disagree with the commenter that a state would be required to submit separate contingency measures to address the RFP and milestone requirements of subparts 1 and 2. The commenter asserts that the language in CAA 182(c)(9) stating the requirements for contingency measures in Serious and above ozone nonattainment areas are ''in addition to the contingency provisions required under section [172(c)(9)]'' refers to both the triggers for contingency measures and the contingency measures themselves. In other words, the commenter asserts that the EPA must require the state to submit contingency measures to address RFP failures under subpart 1 and additional contingency measures to address such failures under subpart 2.

As explained above, CAA 182(c)(9) requires state nonattainment plans for Serious and above ozone nonattainment areas to provide for the implementation of contingency measures to be undertaken if an area fails to meet an applicable milestone, *i.e.,* RFP. Because a ''milestone,'' as the term is used in CAA section 182(g), is applicable only to areas classified as Serious and above, CAA 182(c)(9) represents an additional requirement that states must address in an ozone nonattainment plan submission for these areas. Section 182(c)(9) requires that certain state submissions must provide for the implementation of contingency measures in the event of a failure to meet a milestone; it does not require the state to submit separate and distinct contingency measures allocated exclusively for a failure to meet a milestone. Serious and above areas remain subject to the general contingency measure requirement described at CAA 172(c)(9), including the requirement for contingency measures to take effect in the event of a failure to attain the NAAQS by the applicable attainment date (which is not provided for in CAA 182(c)(9)), as well as the requirement for contingency measures to address a failure to make RFP (*i.e.,* under CAA 182(c)(9), a failure to meet an applicable milestone under CAA 182(g)). CAA 182(c)(9) therefore applies a more specific requirement ''in addition to'' the general requirements at CAA 172(c)(9), by establishing failure to meet a CAA 182(g) milestone as a specific trigger for contingency measures in Serious and above ozone nonattainment areas.[34]

This is consistent with the EPA's longstanding interpretation of the contingency measure requirements, as set out in the General Preamble and the

[29] See CAA 182(g)(1) (explaining that an ''applicable milestone'' is the emissions reduction required to be achieved by the end of an interval pursuant to the RFP provisions at CAA 182(b)(1) and the corresponding RFP requirements of 182(c)(2)(B) and (C) for Serious areas).

[30] 57 FR 13498, 13511 (April 16, 1992).

[31] General Preamble, 57 FR 13498, 13510 (for CAA 182(b)(1) milestones); id. at 13518 (for 182(c)(2)(B) milestones).

[32] 40 CFR 51.1110; see also 70 FR 71612, 71615 (November 29, 2005); 80 FR 12264, 12271 (March 6, 2015).

[33] See CAA 171(1); see also 70 FR 71612, 71648 (November 29, 2005) (''[W]hether dealing with the general RFP requirement of section 172(c)(2), or the more specific RFP requirements of subpart 2 for classified ozone nonattainment areas (*i.e.,* the 15 percent plan requirement of section 182(b)(1) and the 3 percent per year requirement of section 182(c)(2)), the purpose of RFP is to ensure attainment by the applicable attainment date.'').

[34] As explained above and in the proposed rule, the District and CARB have met this requirement by committing to supplement the contingency measures element by submitting, within one year of our final conditional approval action, a SIP revision that establishes contingency measures that will be triggered if the area fails to meet an RFP milestone for the 2008 ozone NAAQS or fails to reach attainment by the applicable attainment date. See 86 FR 2318, 2320.

EPA's implementation rules for the 1997 and 2008 ozone NAAQS. For all of the foregoing reasons, this interpretation is reasonable and appropriate.

We also disagree with the commenter's suggestion that the EPA would be required to re-propose and take comment on our rationale for reconciling the subpart 1 and subpart 2 contingency measures requirements. As described above, our approach in this action reflects the EPA's longstanding interpretation of the statutory requirements as set out in the General Preamble and in the ozone NAAQS implementation rules, including the implementation rule for the 2008 ozone NAAQS, for which the EPA solicited and received public comment on our proposed approaches to RFP, contingency measures, and other topics.

Comment #2: CBD notes that the milestone provisions at CAA 182(g) provide an enforceable tracking and triggering mechanism for subpart 2 contingency measures, and asserts that because the EPA has conflated attainment RFP contingency measures and VOC RFP contingency measures, it has not created any separate, enforceable mechanism for tracking and triggering the subpart 1 contingency measures. CBD asserts that the EPA cannot reasonably approve contingency measures that cannot be triggered, and argues that the EPA's failure to provide an enforceable tracking and triggering mechanism for the subpart 1 contingency measures is an impermissible interpretation of CAA 172(c)(9) because it is unmoored from the purposes and concerns of that part. CBD asserts that without an enforceable commitment by the state to track and report on annual emission reductions, the EPA's discretionary authorities, such as a SIP call under CAA 110(k)(5), are inadequate to address this failure, and that those authorities do not allow the EPA to trigger the subpart 1 contingency measures by determining that attainment RFP has not been met.

Response to Comment #2: Under CAA 172(c)(9), attainment contingency measures are triggered by the EPA's finding under CAA 181(b)(2) that an area has failed to attain a NAAQS by the applicable attainment date. This finding is based on the design value for the area as of the attainment date, which represents ambient ozone concentration data collected for the area. A finding of failure to attain by the attainment date triggers contingency measures to be implemented in the area, without further action by the state or the EPA.[35] Therefore, the enforceable tracking and triggering mechanism for attainment contingency measures are the EPA's determinations under CAA 181(b)(2) regarding whether the ozone nonattainment areas are in attainment by their applicable attainment date. Further, contingency measures are also triggered by an area's failure to reach an RFP milestone, as described by the commenter.

As explained above, the RFP requirements for the 2008 ozone NAAQS are described in the 2008 ozone SRR[36] and codified at 40 CFR 51.1110. These requirements incorporate the subpart 1 and subpart 2 RFP requirements as they apply to nonattainment areas for the 2008 ozone NAAQS, depending on classification and whether the area has an approved 15 percent rate-of-progress plan for the 1-hour or 1997 ozone NAAQS. The percentage reductions described therein represent the applicable subpart 1 and subpart 2 obligations for an area to demonstrate RFP for the 2008 ozone NAAQS,[37] and a failure to meet these obligations will trigger RFP contingency measures as described above and in the proposed rule. Accordingly, we disagree with the commenter that there is not an enforceable mechanism for tracking and triggering the RFP contingency measures under subpart 1.

Comment #3: CBD recounts the backgrounds and outcomes of the *Bahr* decision and the recent *Sierra Club* decision from the D.C. Circuit Court of Appeals,[38] and discusses policy implications of those decisions. CBD also negatively critiques the *LEAN* decision from the Fifth Circuit Court of Appeals,[39] which the commenter asserts was in error.

Response to Comment #3: Our proposed rule explains that we have reviewed the contingency measures element of the 2018 Western Nevada County Ozone Plan in light of the *Bahr* decision which is applicable within the jurisdiction of the Ninth Circuit Court of Appeals. The more recent *Sierra Club* decision, issued after our proposed rule, is consistent with the *Bahr* decision's treatment of contingency measures. For the purposes of our review and action on the 2018 Western Nevada County Ozone Plan, we agree that the *Bahr* and *Sierra Club* decisions govern our review of the contingency measures element.

Comment #4: CBD notes that longstanding EPA policy states contingency measures should equal one year of RFP, and states that the EPA is nonetheless proposing to conditionally approve contingency measures that fall far short of this amount, based on surplus emission reductions from already-implemented measures. CBD asserts that consideration of surplus emissions reductions from already-implemented measures in evaluating the adequacy of contingency measures is functionally no different than simply approving the already-implemented measures as contingency measures, which the commenter says is inconsistent with the *Bahr* and *Sierra Club* decisions.

CBD views the EPA's consideration of surplus reductions from already-implemented measures as relying on a factor Congress has not intended the Agency to consider in evaluating the adequacy of contingency measures under CAA section 172(c)(9). According to CBD, the plain language of sections 172(c)(9) and 182(c)(9), as explained by the *Bahr* and *Sierra Club* decisions, explicitly limits the factors that the EPA may consider by prohibiting use of already implemented measures either as *de jure* or *de facto* contingency measures. CBD indicates that it disagrees with the EPA's response to recent similar comments that CBD submitted for our action on the Ventura County 2008 ozone plan.[40]

Response to Comment #4: Neither the CAA nor the EPA's implementing regulations for the ozone NAAQS establish a specific amount of emissions reductions that implementation of contingency measures must achieve. However, consistent with our longstanding guidance, we agree that contingency measures should generally provide for emissions reductions approximately equivalent to one year's worth of progress, which, for Serious ozone nonattainment areas such as Western Nevada County, amounts to reductions of 3 percent of the RFP baseline emissions inventory for the nonattainment area.

As we described in the prior response document referenced in this comment, in recommending that contingency measures typically achieve one year's worth of RFP, the EPA considers the overarching purpose of such measures in the context of attainment planning. The purpose of emissions reductions

[35] See General Preamble, 57 FR 13498, 13512.

[36] 80 FR 12264, 12263 (March 6, 2015).

[37] See General Preamble, 57 FR 13498, 13510 and 13518 (explaining that an area that meets the RPF milestones specified in subpart 2 ''will also satisfy the general RFP requirements of section 172(c)(2) for the time period discussed.'').

[38] *Sierra Club* v. *EPA,* 985 F.3d 1055 (D.C. Cir. 2021).

[39] *Louisiana Environmental Action Network* v. *EPA,* 382 F.3d 575 (5th Cir. 2004) (''*LEAN*'') (upholding contingency measures that were previously required and implemented where they were in excess of the attainment demonstration and RFP SIP).

[40] 85 FR 38081, 38084 (June 25, 2020).

from implementation of contingency measures is to ensure that, in the event of a failure to meet an RFP milestone or a failure to attain the NAAQS by the applicable attainment date, the state will continue to make progress toward attainment though additional emissions reductions at a rate similar to that specified under the RFP requirements. The intent is that the state will achieve the emissions reductions from the contingency measures while conducting additional control measure development and implementation, as necessary to correct the RFP shortfall to meet the next applicable milestone or as part of a new attainment demonstration plan.[41] The facts and circumstances of a given nonattainment area may justify larger or smaller amounts of emissions reductions for contingency measure purposes.

In reviewing a SIP revision for compliance with CAA sections 172(c)(9) and 182(c)(9), the EPA evaluates whether the contingency measure or measures would provide emissions reductions that, when considered with surplus emissions reductions from other measures not otherwise required or relied upon in the plan, ensure sufficient continued progress in the event of a failure to achieve an RFP milestone or to attain the ozone NAAQS by the applicable attainment date. We continue to evaluate the sufficiency of continued progress that will result from contingency measures in light of our guidance, but in appropriate circumstances do not believe that the contingency measures themselves must provide for one year's worth of RFP. Such appropriate circumstances include situations in which sufficient progress would be maintained by the contingency measures and surplus emissions reductions from other sources, while the state proceeds to develop and implement additional control measures as necessary to correct the RFP shortfall or as part of a new attainment demonstration plan. In other words, if there are additional emissions reductions projected to occur after the RFP milestone years or the attainment year that a state has not relied upon for purposes of RFP or attainment or to meet other nonattainment plan requirements, and that result from measures the state has not adopted as contingency measures, then those reductions may support EPA approval of contingency measures identified by the state even if the contingency measures would result in less than one year's worth of RFP in appropriate circumstances.

[41] 57 FR 13498, 13512 (April 16, 1992).

We disagree that this approach contradicts Congressional intent. The specific explicit factors Congress intended the Agency to use in evaluating the contingency measures at issue here are set forth in CAA sections 172(c)(9) and 182(c)(9) and include specificity (''implementation of specific measures''), timing (''measures to be undertaken'' and ''to take effect''), triggers (if the area fails to attain the NAAQS by the applicable [NAAQS] or if the area fails to meet any applicable milestone), federal enforceability (''included in the [SIP]''), and readiness (measures must be designed to take effect without further action by the state or the EPA). However, neither CAA section 172(c)(9) nor 182(c)(9) contains language implying that these are the only factors for the EPA to consider. Neither section specifies the magnitude of emissions reductions that contingency measures must achieve as an explicit factor for the EPA to consider, although consideration of the magnitude is appropriate in determining whether the contingency measure or measures submitted by the state meet the requirements of CAA sections 172(c)(9) and 182(c)(9). Consideration of the magnitude of emissions reductions is appropriate because contingency measures serve a remedial function where an area fails to achieve an RFP milestone or fails to attain the NAAQS by the applicable attainment date, and RFP and attainment are achieved through emissions reductions.[42]

Just as the CAA does not include the magnitude of emissions reductions as a specific explicit consideration, the CAA also does not prescribe how the EPA is to evaluate that question. As such, the EPA is not relying on a factor that Congress did not intend the EPA to consider when the Agency considers the emissions reductions from already-implemented measures that are surplus to those needed for RFP or attainment within a given nonattainment area when evaluating whether the state's contingency measure submittal meets CAA sections 172(c)(9) and 182(c)(9).

Comment #5: CBD states that the EPA does not say whether the surplus emissions reductions considered in evaluating the adequacy of contingency measures will remain surplus if the contingency measures are triggered. CBD asserts that because these surplus reductions are not contingency measures approved into the SIP (which the commenter notes would contravene the *Bahr* decision), the EPA might consider them surplus even after the area had failed to make RFP, and use the surplus reductions as context to approve inadequate continency measures.

Response to Comment #5: As described in the proposed rule, the 2018 Western Nevada County Ozone Plan provides surplus emissions reductions from CARB's already-adopted mobile source control program in the two RFP milestone years and in the year following the attainment year. CARB's estimates of surplus reductions in the RFP milestone years are 11 to 15 times greater than the amount required to show one year's worth of RFP.[43] In the year after the attainment year, CARB estimates that NO_X emissions in Western Nevada County will be approximately 0.23 tons per day (tpd) lower in 2021 than in the 2020 attainment year due to mobile source controls and vehicle turnover.[44] On this basis, we found that the District's contingency measures do not need to achieve one year's worth of RFP alone, because these contingency measures and other surplus emission reductions will ensure sufficient continued progress in the event of a failure to achieve an RFP milestone or a failure to attain the NAAQS by the applicable attainment date. We therefore conditionally approved the Plan based on the District's commitment to adopt and submit specific enforceable contingency measures as described in letters from the District and CARB.

In the event that contingency measures were triggered for failure to meet an RFP milestone, the District would be required to adopt new contingency measures to take effect in the event of any subsequent failure that would trigger a contingency measure.[45] As described above and in the proposed rule, the EPA evaluates any contingency measures submission to ensure that the submitted measures will continue to

[42] See, *e.g.,* CAA sections 107(d)(3)(E)(iii), 171(1), 182(c)(1). Under CAA 182(g)(3), in the event that a Serious or Severe ozone nonattainment area fails to meet an applicable milestone, the state may elect to implement contingency measures determined by the EPA as adequate to meet the next milestone, to have the area reclassified to the next higher classification, or to adopt an economic incentive program. If the state elects to implement contingency measures, the EPA may require further measures as necessary to meet the next milestone.

[43] CARB estimates surplus reductions of 1.9 tpd of NO_X in 2017 and 2.6 tpd of NO_X in 2020, compared to the 0.17 tpd of NO_X that represents one year's worth of RFP. These estimates are derived from the surplus percentages listed in Table 4 of the proposed rule (34 percent in 2017 and 45.9 percent in 2020) multiplied by the 2011 baseline NO_X emissions level of 5.69 tpd. See 86 FR 2318, 2331.

[44] See 86 FR 2318, 2333.

[45] See, *e.g.,* General Preamble, 57 FR 13498, 13520 (explaining that a state is required to adopt additional measures to replace previously used contingency measures, to assure the continuing availability of contingency measures).

make progress toward attainment in the event of a milestone or attainment failure through additional emissions reductions at a rate similar to that specified under the RFP requirements, given the facts and circumstances of the nonattainment area. Therefore, an evaluation of what emissions reductions are surplus would occur when a new contingency measure is submitted, following a failure to meet an RFP milestone or a failure to attain by the attainment date.

Comment #6: CBD asserts that the proposed rule approaches arbitrary and capricious decision making because it states that it is useful to distinguish RFP contingency measures and attainment contingency measures but does not apply any relevant distinction between the two. CBD asserts that the proposed rule is arbitrary and capricious because it abandons a theory from a previous rulemaking that measures the adequacy of attainment contingency measures by attempting to predict what is necessary to make up a shortfall for a failure to attain without providing an explanation. CBD says that the EPA needs to find a measure for attainment contingency measures that aligns with the statute and is rational. CBD suggests that the EPA could require a state to use RACM measures not needed for expeditious attainment as contingency measures. CBD notes that these measures might be de minimis, and that the EPA could require one year of RFP as a fallback.

Response to Comment #6: As explained in the proposed rule, for purposes of the ozone NAAQS the EPA distinguishes RFP contingency measures from attainment contingency measures, respectively, as contingency measures to address potential failures to achieve RFP milestones and to address potential failure to attain the NAAQS.[46] This distinction is useful for the purposes of evaluating the adequacy of the emissions reductions from the contingency measures (once adopted and submitted), relative to the facts and circumstances of the area, and the anticipated needs to address a shortfall in the relevant years.

CBD's reference to the EPA's theory for measuring the adequacy of attainment contingency measures includes a citation to our proposed rulemaking for the Sacramento Metro nonattainment area. This appears to refer to the EPA's finding for that area that the committed contingency measures that served as the basis for our conditional approval were projected to be sufficient to correct a failure to attain in less than a year from the attainment date, and therefore reflect continued progress for purposes of the attainment contingency measure requirements.[47] As described in the proposed rule, the 2018 Western Nevada County Ozone Plan shows that reductions from the proposed contingency measure, combined with additional emissions reductions from other sources that the state does not rely upon to meet other requirements in the nonattainment plan in the year following the attainment year, will exceed one year's worth of RFP.[48] For this reason and for the reasons described above, we disagree that our conditional approval of the attainment contingency measures is arbitrary and capricious.

A described above, we disagree that the EPA's longstanding approach to evaluating attainment contingency measures is not rational or does not align with the CAA. To CBD's specific suggestion that an area should use RACM measures not needed for expeditious attainment as contingency measures, we agree that this option may be available to some districts and states[49] but disagree with the commenter's suggestion that the EPA would be constrained against approving other measures that are consistent with the Act and the EPA's implementing regulations with respect to contingency measure requirements.

Comment #7: CBD's Appendix provides numerous comments directed at the EPA's NO_X Substitution Guidance, contending that the EPA's NO_X Substitution Guidance is illegitimate. These comments assert generally that the NO_X Substitution Guidance contradicts CAA section 182(c)(2)(C) by recommending a procedure that fails to demonstrate any equivalence between VOC and NO_X reductions, relies on incorrect policy assumptions, and gives legal justifications that are without merit.

Response to Comment #7: Comments relating solely to the NO_X Substitution Guidance are outside the scope of this rulemaking action. As noted in our proposed rule, our approval of the District's use of NO_X substitution is supported by local conditions and needs as documented in the modeling and analysis included in the 2018 Western Nevada County Ozone Plan, and is consistent with the requirements in CAA section 182(c)(2)(C).

III. Final Action

No comments were submitted that change our assessment of the 2018 Western Nevada County Ozone Plan as described in our proposed action. Therefore, for the reasons discussed in detail in the proposed rule and summarized herein, under CAA section 110(k)(3), the EPA is taking final action to approve as a revision to the California SIP the following portions of the 2018 Western Nevada County Ozone Plan for the 2008 ozone NAAQS submitted by CARB on December 7, 2018:

- Base year emissions inventory element as meeting the requirements of CAA sections 172(c)(3) and 182(a)(1) and 40 CFR 51.1115;
- RACM demonstration element as meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.1112(c);
- Attainment demonstration element as meeting the requirements of CAA section 182(c)(2)(A) and 40 CFR 51.1108;
- ROP demonstration element as meeting the requirements of CAA 182(b)(1) and 40 CFR 51.1110(a)(4)(i);
- RFP demonstration element as meeting the requirements of CAA sections 172(c)(2), 182(b)(1), and 182(c)(2)(B), and 40 CFR 51.1110(a)(4)(iii); and
- Motor vehicle emissions budgets for the RFP milestone and attainment year of 2020, as shown below, because they are consistent with the RFP and attainment demonstrations for the 2008 ozone NAAQS approved herein and meet the other criteria in 40 CFR 93.118(e).

TABLE 1—TRANSPORTATION CONFORMITY BUDGETS FOR 2020 FOR THE 2008 OZONE NAAQS IN WESTERN NEVADA COUNTY

[Summer planning inventory, tpd]

	2020	
	VOC	NO_X
Motor vehicle emissions budget	0.8	1.7

Source: Table 7 of the 2018 Western Nevada County Ozone Plan.

We are also taking final action to find that the:

- Requirements for enhanced monitoring under CAA section 182(c)(1) and 40 CFR 51.1102 for Western Nevada County for the 2008 ozone NAAQS have been met; and

[46] 86 FR 2318, 2333.

[47] See 85 FR 68509, 68529 (October 29, 2020). See General Preamble, 57 FR 13498, 13511 (explaining that where a failure to attain or meet RFP can be corrected in less than one year, the EPA may consider contingency measures that are proportionally less than one year's worth of RFP sufficient to correct the identified failure).

[48] 86 FR 2318, 2333 (January 12, 2021).

[49] See, *e.g.,* 81 FR 58010, 58066 (August 24, 2016) (suggesting measures identified as possible RACM or RACT that are not needed for expeditious attainment may be suitable as contingency measures).

• The submitted 2020 budgets from the 2018 Western Nevada County Ozone Plan are adequate for transportation conformity purposes.[50]

Lastly, we are conditionally approving, under CAA section 110(k)(4), the contingency measures element of the 2018 Western Nevada County Ozone Plan as meeting the requirements of CAA sections 172(c)(9) and 182(c)(9) for RFP and attainment contingency measures. Our approval is based on commitments by the District and CARB to supplement the element through submission, as a SIP revision (within one year of our final conditional approval action), of a District rule that would add new limits or other requirements that would apply if an RFP milestone is not met or if Western Nevada County fails to attain the 2008 ozone NAAQS by the applicable attainment date.[51]

IV. Statutory and Executive Order Reviews

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

• Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 20, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

Dated: May 13, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, the EPA amends chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(554) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(554) The following plan was submitted on December 7, 2018 by the Governor's designee.

(i) [Reserved]

(ii) *Additional materials.* (A) Northern Sierra Air Quality Management District

(*1*) Ozone Attainment Plan, Western Nevada County, State Implementation Plan for the 2008 Primary Federal 8-Hour Ozone Standard of .075 ppm, adopted on October 22, 2018.

(*2*) [Reserved]

(B) [Reserved]

■ 3. Section 52.244 is amended by adding paragraph (a)(12) to read as follows:

§ 52.244 Motor vehicle emissions budgets.

(a) * * *

(12) Nevada County (Western part), approved June 21, 2021.

* * * * *

[50] Pursuant to 40 CFR 93.118(f)(2)(iii), the EPA's adequacy determination is effective upon publication of this final rule in the **Federal Register**. The proposed rule proposed to find that Western Nevada County had met the clean fuels fleet program requirements in CAA sections 182(c)(4) and 246 and 40 CFR 51.1102 for the 2008 ozone NAAQS through the State's 1994 ''Opt-Out Program'' SIP revision. However, as explained above, the area is not subject to this element because its 1980 population was less than 250,000.

[51] Letter dated November 16, 2020, from Richard Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX. CARB's letter also forwarded the District's commitment letter to the EPA. The District's letter is dated October 26, 2020, from Gretchen Bennitt, NSAQMD Air Pollution Control Officer, to Richard Corey, CARB Executive Officer.

■ 4. Section 52.248 is amended by adding paragraph (l) to read as follows:

§ 52.248 Identification of plan—conditional approval.

* * * * *

(l) The EPA is conditionally approving the California State Implementation Plan (SIP) for Nevada County (Western part) for the 2008 ozone NAAQS with respect to the contingency measures requirements of CAA sections 172(c)(9) and 182(c)(9). The conditional approval is based on a commitment from the Northern Sierra Air Quality Management District (District) in a letter dated October 26, 2020, to adopt a specific rule revision, and a commitment from the California Air Resources Board (CARB) dated November 16, 2020, to submit the amended District rule to the EPA within 12 months of the effective date of the final conditional approval. If the District or CARB fail to meet their commitments within one year of the effective date of the final conditional approval, the conditional approval is treated as a disapproval.

[FR Doc. 2021–10510 Filed 5–20–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R10–OAR–2020–0190; FRL–10023–66–Region 10]

Air Plan Approval; ID: Logan Utah-Idaho $PM_{2.5}$ Redesignation to Attainment and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is redesignating the Idaho portion of the Logan, Utah-Idaho fine particulate matter ($PM_{2.5}$) nonattainment area (Logan UT-ID NAA) to attainment for the 2006 $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS). EPA is also approving a maintenance plan for the area demonstrating continued compliance with the 2006 $PM_{2.5}$ NAAQS through 2031, which the Idaho Department of Environmental Quality (IDEQ) submitted along with the redesignation request on September 13, 2019, for inclusion in the Idaho State Implementation Plan (SIP). Additionally, EPA is approving the 2031 motor vehicle emissions budgets included in Idaho's maintenance plan for $PM_{2.5}$, nitrogen oxides (NO_X) and volatile organic compounds (VOC). EPA is taking this final action pursuant to the Clean Air Act (CAA or the Act).

DATES: This rule is effective on June 21, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2020–0190. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information 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: Adam Clark, (206) 553–1495, *clark.adam@epa.gov*, EPA Region 10, 1200 6th Avenue, Suite 155, Seattle, Washington, 98101.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, it is intended to refer to EPA.

I. Background

On October 17, 2006, EPA revised the level of the 24-hour $PM_{2.5}$ NAAQS, lowering the primary and secondary standards from the 1997 standard of 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$ (71 FR 61144). On November 13, 2009, EPA designated a portion of Franklin County, Idaho and portions of Cache County, Utah nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS (74 FR 58688). This cross-boundary nonattainment area is referred to as the Logan, UT-ID $PM_{2.5}$ NAA. On September 13, 2019, IDEQ submitted to EPA a request to redesignate the Idaho portion of the Logan UT-ID $PM_{2.5}$ NAA to attainment, per CAA section 107(d)(3)(E). IDEQ also submitted a CAA section 175A maintenance plan to demonstrate continued attainment of the 2006 $PM_{2.5}$ NAAQS in the area for at least 10 years after approval of the redesignation. On February 17, 2021, EPA proposed to redesignate the Franklin County, ID portion of the Logan UT-ID $PM_{2.5}$ NAA to attainment and approve into the Idaho SIP the associated maintenance plan (86 FR 9884). As described in detail in that action, EPA's proposed approval of the redesignation request and maintenance plan is based upon our determination that the area attains the 2006 24-hour $PM_{2.5}$ NAAQS and that all other CAA section 107(d)(3)(E) redesignation criteria have been met for the area.

II. Response to Comments

EPA received comments from three individuals during the 30-day comment period following publication of the proposed approval in the **Federal Register**. A summary of these comments and EPA's responses is provided below.

Comment 1: Two of the commenters expressed concern about the current air quality in the Logan, UT-ID $PM_{2.5}$ NAA, commonly referred to as the Cache Valley. One of these commenters stated that attainment had only been achieved ''on paper,'' but that air quality in the Cache Valley remained poor. This commenter suggested different local causes of poor air quality, including an increase in the number of diesel pickup trucks and snowmobiles in the area, the burning of agricultural fields and ditches, the burning of slashed trees by the U.S. Forest Service, and non-adherence to idling restrictions. Both commenters asserted that the poor air quality in the area caused negative health impacts for them (including the need to purchase indoor air purifiers), and often prevented them from recreating outdoors.

Response 1: The comments speak generally about air quality in the area, but do not provide any specific information to contradict EPA's proposed finding that the Logan UT-ID area meets the criteria for redesignation under CAA Section 107(d)(3)(E) for the 2006 $PM_{2.5}$ NAAQS. As discussed in detail in the proposal, EPA's review of air monitoring data in the Logan UT-ID $PM_{2.5}$ NAA demonstrates that the area has attained the 2006 24-hour $PM_{2.5}$ NAAQS continuously since the 2015–2017 design value period which was the basis for our October 19, 2018 determination of attainment by the attainment date and clean data determination (86 FR 9886). These comments do not provide a basis to reconsider EPA's determination that the area meets the criteria under CAA Section 107(d)(3)(E) or to otherwise disapprove IDEQ's redesignation request or associated maintenance plan for the Idaho portion of the Logan UT-ID NAA.

Comment 2: Two of the commenters provided suggestions to improve air quality in the Cache Valley. One commenter stated that the Cache Valley needs access to Tier 3 gasoline and more electric vehicle (EV) charging stations. Another commenter asserted that the state ''thwarts efforts to induce private citizens to own appropriate vehicles that can reduce air pollution by proposing to increasing personal property taxes from 200–400%+ on

hybrid, plug-in EV, and EV vehicles.'' This commenter also stated that the county had failed to enforce idling restrictions, and recommended that the county increase education about the consequences of non-adherence to idling restrictions ''by private citizens, as well as corporate and government entities.''

Response 2: While the EPA ultimately approves or disapproves a state plan as meeting or not meeting the criteria of the CAA, Congress gave states the lead in developing a plan to implement, maintain, and enforce the NAAQS. Once a NAAQS is established, each state is required to develop a plan for how the state will control air pollution within its jurisdiction, which is called a SIP. SIPs must include, among other things, emission limitations and other control measures, means, or techniques, as well as schedules, and timetables for compliance, as may be necessary or appropriate to meet applicable CAA requirements, including timely attainment and subsequent maintenance of the NAAQS. CAA section 110(a)(2); see also *Train* v. *NRDC,* 421 US 60, 67 (1975). ''[S]o long as the ultimate effect of a State's choice of emission limitations is compliance with the [NAAQS],'' the State generally may adopt its preferred mix of controls deemed best suited to its particular situation. See *Train,* 421 US at 79. As discussed in the proposal, EPA has determined that the improvement in air quality in the Logan UT-ID NAA is reasonably attributable to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions (86 FR 9888). The comment does not provide a basis for EPA to reconsider this or any other portion of our proposed action.

III. Final Action

EPA is finalizing the redesignation of the Idaho portion of the Logan UT-ID 2006 $PM_{2.5}$ NAA to attainment. EPA is also approving the associated maintenance plan ensuring continued attainment of the 2006 24-hour $PM_{2.5}$ NAAQS in the area for the next 10 years. For transportation conformity purposes, EPA is approving the 2031 motor vehicle emissions budgets included in Idaho's maintenance plan for $PM_{2.5}$, NO_X and VOC. The designation status of the Idaho portion of the Logan, UT-ID $PM_{2.5}$ NAA under 40 CFR part 81 will be revised to attainment upon the effective date of this final action.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan and associated motor vehicle emissions budgets under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those already imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 20, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 14, 2021.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart N—Idaho

■ 2. In § 52.670, the table in paragraph (e) is amended by adding an entry at the end of the table for ''Cache Valley Fine Particulate Matter Maintenance Plan'' to read as follows:

§ 52.670 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED IDAHO NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
Cache Valley Fine Particulate Matter Maintenance Plan.	Franklin County, Logan UT-ID $PM_{2.5}$ Area.	9/13/2019	5/21/2021, [Insert **Federal Register** citation].	.....

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.313 amend in the table entitled ''Idaho—2006 24-Hour $PM_{2.5}$ NAAQS'' by revising the entry for ''Franklin County (part)'' to read as follows:

§ 81.313 Idaho.

* * * * *

IDAHO—2006 24-HOUR $PM_{2.5}$ NAAQS

[Primary and Secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [2]	Type
Logan, UT–ID:				
Franklin County (part)	5/21/2021	Attainment.		
Begin in the bottom left corner (southwest) of the nonattainment area boundary, southwest corner of the PLSS-Boise Meridian, Township 16 South, Range 37 East, Section 25. The boundary then proceeds north to the northwest corner of Township 15 South, Range 37 East, Section 25; then the boundary proceeds east to the southeast corner of Township 15 South, Range 38 East, Section 19; then north to the Franklin County boundary at the northwest corner of Township 13 South, Range 38 East, Section 20. From this point the boundary proceeds east 3.5 sections along the northern border of the county boundary where it then turns south 2 sections, and then proceeds east 5 more sections, and then north 2 sections more. At this point, the boundary leaves the county boundary and proceeds east at the southeast corner of Township 13 South, Range 39 East, Section 14; then the boundary heads north 2 sections to northwest corner of Township 13 South, Range 39 east, Section 12; then the boundary proceeds east 2 sections to the northeast corner of Township 13 South, Range 40 East, Section 7. The boundary then proceeds south 2 sections to the northwest corner of Township 13 South, Range 40 East, Section 20; the boundary then proceeds east 6 sections to the northeast corner of Township 13 South, Range 41 East, Section 19. The boundary then proceeds south 20 sections to the southeast corner of Township 16 South, Range 41 East, Section 30. Finally, the boundary is completed as it proceeds west 20 sections along the southern Idaho state boundary to the southwest corner of the Township 16 South, Range 37 East, Section 25.				
*	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 30 days after November 13, 2009, unless otherwise noted.
[2] This date is July 2, 2014, unless otherwise noted.

* * * * *

[FR Doc. 2021–10633 Filed 5–20–21; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 86, No. 97
Friday, May 21, 2021

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0374; Project Identifier MCAI–2020–00543–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Helicopters Model SA330J, AS332C, AS332L, AS332L1, AS332L2, and EC225LP helicopters. This proposed AD was prompted by a report of a left-hand (LH) side stairway door that inadvertently opened in flight and tore off from its attachment fittings. This proposed AD would require inspecting the locking safety mechanism of the LH side stairway door handle and depending on the results, corrective action. This proposed AD would also require modifying that locking safety mechanism as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 6, 2021.

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

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

For material that is proposed for IBR in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0374.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0374; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0374; Project Identifier MCAI–2020–00543–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0087, dated April 15, 2020 (EASA AD 2020–0087), to correct an unsafe condition for certain Airbus Helicopters (AH), formerly Eurocopter, Eurocopter France, Aerospatiale, Sud Aviation Model SA330J, AS332C, AS332L, AS332L1, AS332L2, and EC225LP helicopters, if equipped with a LH side stairway door, except helicopters modified in accordance with AH modification (MOD) 07 28281 (AS 332, EC 225) or MOD 07 27338 (SA 330). EASA issued EASA AD 2020–0087 to supersede EASA Emergency AD 2014–0241–E,

dated November 4, 2014 (EASA AD 2014–0241–E).

This proposed AD was prompted by a report of a LH side stairway door that inadvertently opened and tore off from its attachment fittings during flight. Subsequent investigation revealed that the affected side stairway door had been recently painted and the paint impaired the external door handle motion, affecting the correct operation of the door locking safety mechanism. The FAA is proposing this AD to address incorrect locking of the LH side stairway door, which could result in an in-flight opening of the door and subsequent damage to the helicopter or injury to persons on the ground. See EASA AD 2020–0087 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0087 requires repetitively inspecting the locking safety mechanism of the LH side stairway door handle for correct operation and depending on the results, reconditioning the locking safety mechanism or contacting the Airbus Helicopters Support and Services Department. EASA AD 2020–0087 also requires modifying the locking safety mechanism, which constitutes terminating action for the repetitive inspections.

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

FAA's Determination and Requirements of This Proposed AD

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the EASA AD referenced above. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0087, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0087 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0087 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0087 that is required for compliance with EASA AD 2020–0087 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0374 after the FAA final rule is published.

Differences Between This Proposed AD and the EASA AD

Where EASA AD 2020–0087 refers to the effective date of EASA AD 2014–0214–E or its effective date, this proposed AD would require using the effective date of this AD. Where EASA AD 2020–0087 refers to Group 1 and 2 helicopters, this proposed AD would not refer to any groups of helicopters. Where the service information referenced in EASA AD 2020–0087 allows the pilot to perform the requirements of the ASB, this proposed AD would require the requirements to be performed by a qualified mechanic. Where the service information referenced in EASA AD 2020–0087 specifies to submit certain information to the manufacturer, this AD does not include that requirement. Where the service information referenced in EASA AD 2020–0087 specifies to discard certain parts, this proposed AD would require removing those parts from service instead. EASA AD 2020–0087 requires repeating the inspection before next flight after each application of painting on the LH side stairway door or its external door handle, whereas this proposed AD would not. EASA AD 2020–0087 requires contacting the Airbus Helicopters Support and Services Department if it is impossible to recondition the locking safety mechanism by moving the door handle, whereas this proposed AD would require, before further flight, accomplishing paragraph (5) of EASA AD 2020–0087 or accomplishing corrective action using a method approved by the Manager, International Validation Branch, FAA. The Manager's approval letter must specifically refer to this AD.

Costs of Compliance

The FAA estimates that this AD affects 37 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this proposed AD.

Inspecting the operation of the locking safety mechanism on the LH side stairway door handle would take about 0.1 work-hour for an estimated cost of $9 per helicopter and $333 for the U.S. fleet.

Moving the external door handle from the ''Locked'' to the ''Unlocked'' position to determine if the safety mechanism on the LH side stairway door handle can lock automatically would take about 0.5 work-hour for an estimated cost of $43 per helicopter.

Modifying the locking safety mechanism on the LH side stairway door handle would take about 8 work-hours and parts would cost about $5,000 for an estimated cost of $5,680 per helicopter.

Authority for This Rulemaking

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

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

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2021–0374; Project Identifier MCAI–2020–00543–R.

(a) Comments Due Date

The FAA must receive comments by July 6, 2021.

(b) Affected Airworthiness Directives (ADs)

None.

(c) Applicability

This AD applies to Airbus Helicopters Model SA330J, AS332C, AS332L, AS332L1, AS332L2, and EC225LP helicopters, certificated in any category, as identified in the Applicability of European Union Aviation Safety Agency AD 2020–0087, dated April 15, 2020 (EASA AD 2020–0087).

(d) Subject

Joint Aircraft System Component (JASC) Code: 5210, Passenger/Crew Doors.

(e) Unsafe Condition

This AD was prompted by a report of a left-hand (LH) side stairway door that inadvertently opened and tore off from its attachment fittings during flight. The FAA is issuing this AD to address incorrect locking of the LH side stairway door, which could result in an in-flight opening of the door and subsequent damage to the helicopter or injury to persons on the ground.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0087.

(h) Exceptions to EASA AD 2020–0087

(1) Where EASA AD 2020–0087 refers to November 6, 2014 (the effective date of EASA AD 2014–0241–E, dated November 4, 2014) or its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2020–0087 refers to Group 1 and Group 2 helicopters, this AD does not refer to any groups of helicopters.

(3) Where the service information referenced in EASA AD 2020–0087 permits certain actions to be performed by a mechanical engineering technician or pilot, this AD requires that the actions be performed by a qualified mechanic.

(4) Where the service information referenced in EASA AD 2020–0087 specifies to discard certain parts, this AD requires removing those parts from service.

(5) While paragraph (2) of EASA AD 2020–0087 requires actions before next flight after each application of painting on the LH side stairway door or its external door handle, those actions are not required by this AD.

(6) Where paragraph (3) of EASA AD 2020–0087 requires reconditioning the locking safety mechanism, and the service information referenced in paragraph (3) of EASA AD 2020–0087 specifies contacting the Airbus Helicopters Support and Services Department if it is impossible to recondition the locking safety mechanism by moving the door handle, this AD requires moving the external door handle from the ''Locked'' to the ''Unlocked'' position to determine if the safety mechanism can lock automatically. If the safety mechanism does not lock automatically, this AD requires, before further flight accomplishing paragraph (5) of EASA AD 2020–0087 or accomplishing corrective action using a method approved by the Manager, International Validation Branch, FAA. The Manager's approval letter must specifically refer to this AD.

(7) Where paragraph (5) of EASA AD 2020–0087 identifies the modification as required by paragraph (4) of EASA AD 2020–0087 as terminating action for the repetitive inspections as required by paragraph (2) of EASA AD 2020–0087 for that helicopter, this AD does not allow the modification to terminate the repetitive inspections as required by paragraph (2) of EASA AD 2020–0087.

(8) The ''Remarks'' section of EASA AD 2020–0087 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0087 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

(1) For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.*

(2) For EASA AD 2020–0087, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0374.

Issued on May 15, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–10721 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0373; Project Identifier MCAI–2020–01352–R]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–19–11 for certain Leonardo S.p.a. Model A119 and AW119 MKII helicopters. AD 2020–19–11 requires repetitive borescope inspections of the 90-degree tail rotor gearbox (TGB) and depending on the inspection results, removing the TGB from service. Since the FAA issued AD 2020–19–11, it was determined that additional parts may be susceptible to the unsafe condition. This proposed AD would retain the inspection requirements of AD 2020–19–11, and revise the compliance time and applicability. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 6, 2021.

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

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

For service information identified in this NPRM, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0373; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the European Union Aviation Safety Agency (EASA) AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Rao Edupuganti, Aerospace Engineer, Dynamic Systems Section, Technical Innovation Policy Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *rao.edupuganti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0373; Project Identifier MCAI–2020–01352–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

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

Background

The FAA issued AD 2020–19–11, Amendment 39–21254 (85 FR 59404, September 22, 2020) (AD 2020–19–11) for Leonardo Model A119 and AW119 MKII helicopters with TGB part number (P/N) 109–0440–06– 101 or P/N 109–0440–06–105 having serial number (S/N) 167, 169 through 172 inclusive, 215 through 225 inclusive, 227, 230, 232, 233, AW268, K3, K16, M47, or L29, installed. AD 2020–19–11 requires within 25 hours time-in-service (TIS) or 3 months, whichever occurs first, and thereafter at intervals not to exceed 100 hours TIS or 6 months, whichever occurs first, borescope inspecting the internal surface of the TGB output shaft for corrosion and depending on the inspection results, removing the TGB from service before further flight.

AD 2020–19–11 was prompted by EASA AD 2018–0156, dated July 24, 2018 (EASA AD 2018–0156), issued by the EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Leonardo S.p.a. Helicopters (formerly Finmeccanica S.p.A., AgustaWestland S.p.A., Agusta S.p.A.; and AgustaWestland Philadelphia Corporation, formerly Agusta Aerospace Corporation) Model A119 and AW119MKII helicopters with TGB P/N 109–0440–06–101 or P/N 109–0440–06–105 having serial number 167, 169 through 172 inclusive, 215 through 225 inclusive, 227, 230, 232, 233, AW268, K3, K16, M47, or L29, installed. EASA AD 2018–0156 advised of two reported occurrences of corrosion on the internal surface of the TGB shaft installed on Model A119 helicopters. Further analysis identified a specific batch of parts that may be susceptible to similar conditions. Due to design similarity Model AW119MKII helicopters are also affected. This condition, if not addressed, could result in failure of the tail rotor, possibly resulting in reduced control of the helicopter.

Accordingly, the EASA AD required performing repetitive endoscope inspections on the internal surface of the TGB output shaft for corrosion and depending onthe findings, replacing the

TGB. EASA considered its AD an interim action and stated that further AD action may follow.

Actions Since AD 2020–19–11 Was Issued

Since the FAA issued AD 2020–19–11, EASA issued EASA AD 2020–0206, dated September 30, 2020 (EASA AD 2020–0206), which supersedes EASA AD 2018–0156. EASA advises that additional parts may be susceptible to similar occurrences and some TGB shafts could have been reinstalled on a TGB other than the one on which they were initially installed. Accordingly, EASA AD 2020–0206 retains the inspection requirements of EASA AD 2018–0156 for certain part numbered TGB shafts and revises the definition of an affected part by adding certain serial-numbered TGB shafts.

FAA's Determination

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed Leonardo Helicopters Alert Service Bulletin (ASB) No. 119–090, Revision A, dated September 14, 2020. This service information specifies procedures for conducting an endoscope inspection of the internal surface of the TGB output shaft for corrosion. This service information also specifies replacing the TGB if corrosion is found.

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

Proposed AD Requirements in This NPRM

This proposed AD would retain certain requirements of AD 2020–19–11. This proposed AD would revise the compliance time for the repetitive inspections from intervals not to exceed 100 hours TIS or 6 months to only intervals not to exceed 6 months. This proposed AD would also revise the applicability paragraph by adding certain serial-numbered TGB shafts.

Differences Between This Proposed AD and the EASA AD

The EASA AD uses flight hours to describe one compliance time, whereas this proposed AD would use hours TIS. The EASA AD requires using an endoscope for inspection, whereas this proposed AD would require inspecting with a borescope. The EASA AD defines the affected part as the 90-degree TGB shaft installed on TGB P/N 109–0440–06–01–101, whereas the applicability paragraph of this proposed AD would include TGB P/N 109–0440–06–101 instead.

Interim Action

The FAA considers this proposed AD an interim action.

Costs of Compliance

The FAA estimates that this proposed AD would affect 134 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this proposed AD. Labor costs are estimated at $85 per work-hour.

Borescope inspecting the TGB output shaft would take about 3 work-hours for an estimated cost of $255 per helicopter and $34,170 for the U.S. fleet per inspection cycle.

Replacing a TGB would take about 18 work-hours and parts would cost about $49,000 (overhauled TGB) for an estimated cost of $50,530 per helicopter.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–19–11, Amendment 39–21254 (85 FR 59404, September 22, 2020); and

■ b. Adding the following new AD:

Leonardo S.p.a: Docket No. FAA–2021–0373; Project Identifier MCAI–2020–01352–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by July 6, 2021.

(b) Affected ADs

This AD replaces AD 2020–19–11, Amendment 39–21254 (85 FR 59404, September 22, 2020); (AD 2020–19–11).

(c) Applicability

This AD applies to Leonardo S.p.a. Model A119 and AW119 MKII helicopters, certificated in any category, with 90-degree tail rotor gearbox (TGB) part number (P/N) 109–0440–06–101 or 109–0440–06–105, and with TGB shaft P/N 109–0443–03–107 having a serial number (S/N) listed in Table 1 of Leonardo Helicopters Alert Service Bulletin No. 119–090, Revision A, dated September 14, 2020 (ASB 119–090), installed.

Note 1 to paragraph (c): A TGB shaft is also referred to as a mast gear assembly.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6510, Tail Rotor Drive Shaft.

(e) Unsafe Condition

This AD was prompted by two occurrences of corrosion on the internal surface of the TGB shaft. The FAA is issuing this AD to detect corrosion of the TGB shaft. The unsafe condition, if not addressed, could result in failure of the tail rotor, possibly resulting in reduced control of the helicopter.

(f) Compliance

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

(g) Required Actions

(1) Within 25 hours time-in-service (TIS) or 3 months, whichever occurs first after the effective date of this AD, and thereafter at intervals not to exceed 6 months, borescope inspect the entire internal surface of the TGB shaft for corrosion. Refer to Detail A of Figure 1 of ASB 119–090, for a depiction of the entry point for the borescope. If there is corrosion, before further flight, remove the TGB from service.

(2) As of the effective date of this AD, do not install on any helicopter any TGB P/N 109–0440–06–101 or 109–0440–06–105 that has TGB shaft P/N 109–0443–03–107 having an S/N listed in Table 1 of ASB 119–090, unless the actions required by paragraph (g)(1) of this AD have been accomplished.

(h) Special Flight Permits

A special flight permit may be permitted provided that there are no passengers onboard.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

(1) For more information about this AD, contact Rao Edupuganti, Aerospace Engineer, Dynamic Systems Section, Technical Innovation Policy Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *rao.edupuganti@faa.gov.*

(2) For service information identified in this AD, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(3) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD 2020–0206, dated September 30, 2020. You may view the EASA AD on the internet at *https://www.regulations.gov* in the AD Docket.

Issued on May 15, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–10700 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0372; Project Identifier MCAI–2020–01684–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–21–05, which applies to all Airbus SAS Model A330–200 Freighter, A330–200, A330–300, A330–900, A340–200, A340–300, A340–500, and A340–600 series airplanes. AD 2020–21–05 requires repetitive inspections of certain fuel pumps for cavitation erosion, replacement if necessary, revision of the operator's minimum equipment list (MEL), and accomplishment of certain maintenance actions related to defueling and ground fuel transfer operations. Since the FAA issued AD 2020–21–05, a determination was made that certain compliance times need to be revised and that additional airplanes are subject to the unsafe condition. This proposed AD would retain the requirements of AD 2020–21–05, revise certain compliance times, and expand the applicability, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 6, 2021.

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

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

For material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0372.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0372; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0372; Project Identifier MCAI–2020–01684–T'' at the beginning

of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2020–21–05, Amendment 39–21278 (85 FR 64963, October 14, 2020) (AD 2020–21–05), which applies to all Airbus SAS Model A330–200 Freighter, A330–200, A330–300, A330–900, A340–200, A340–300, A340–500 and A340–600 series airplanes. AD 2020–21–05 requires repetitive inspections of certain fuel pumps for cavitation erosion, replacement if necessary, revision of the operator's MEL, and accomplishment of certain maintenance actions related to defueling and ground fuel transfer operations. The FAA issued AD 2020–21–05 to address fuel pump erosion caused by cavitation. If this condition is not addressed, a pump running dry could result in a fuel tank explosion and consequent loss of the airplane.

Actions Since AD 2020–21–05 Was Issued

Since the FAA issued AD 2020–21–05, it has been determined, through an assessment of inspection results, that the flight cycles accumulated by an affected part, when installed at a certain location, must also be considered, and certain compliance times need to be revised accordingly. In addition, Model A330–841 airplanes have been found to be subject to the unsafe condition.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0283, dated December 17, 2020; corrected December 24, 2020 (EASA AD 2020–0283) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus A330–201, A330–202, A330–203, A330–223, A330–223F, A330–243, A330–243F, A330–301, A330–302, A330–303, A330–321, A330–322, A330–323, A330–341, A330–342, A330–343, A330–743L, A330–841, A330–941, A340–211, A340–212, A340–213, A340–311, A340–312, A340–313, A340–541, A340–542, A340–642 and A340–643 airplanes. EASA AD 2020–0283 supersedes EASA AD 2019–0291R1 (which corresponds to FAA AD 2020–21–05). Model A330–743L, A340–542, and A340–643 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by reports of a fuel pump showing cavitation erosion that breached the fuel pump housing through the inlet webs and exposed the fuel pump power supply wires, and a determination that certain compliance times need to be revised and that additional airplanes are subject to the unsafe condition. The FAA is proposing this AD to address fuel pump erosion caused by cavitation. If this condition is not addressed, a pump running dry could result in a fuel tank explosion and consequent loss of the airplane. See the MCAI for additional background information.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2020–21–05, this proposed AD would retain all of the requirements of AD 2020–21–05. Those requirements are referenced in EASA AD 2020–0283, which, in turn, is referenced in paragraph (g) of this proposed AD.

Related Service Information Under 1 CFR Part 51

EASA AD 2020–0283 describes procedures for repetitive inspections of all affected parts, replacement if necessary, updating of the applicable Master Minimum Equipment List (MMEL), and certain maintenance actions related to defueling and ground fuel transfer operations.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD because the FAA evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0283 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

EASA AD 2020–0283 requires operators to ''inform all flight crews'' of revisions to the MMEL, and thereafter to ''operate the aeroplane accordingly.'' However, this AD would not specifically require those actions as they are already required by FAA regulations.

FAA regulations (14 CFR 121.628(a)(2)) require operators to provide pilots with access to all of the information contained in the operator's MEL.

Furthermore, 14 CFR 121.628(a)(5) requires airplanes to be operated under all applicable conditions and limitations contained in the operator's MEL. Therefore, including a requirement in this AD to operate the airplane according to the revised MEL would be redundant and unnecessary. Further, compliance with such a requirement in an AD would be impracticable to demonstrate or track on an ongoing basis; therefore, a requirement to

operate the airplane in such a manner would be unenforceable.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0283 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0283 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2020–0283 that is required for compliance with EASA AD 2020–0283 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0372 after the FAA final rule is published.

Interim Action

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

Costs of Compliance

The FAA estimates that this proposed AD affects 112 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2020–21–05	Up to 72 work-hours × $85 per hour = Up to $6,375.	0	Up to $6,375	Up to $714,000.
New proposed actions	Up to 72 work-hours × $85 per hour = Up to $6,375.	0	Up to $6,375	Up to $714,000.
MEL revision	1 work-hour × $85 = $85	$0	$85	$9,520.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 126 work-hours × $85 per hour = Up to $10,710	Up to $173,680	Up to $184,390.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2020–21–05, Amendment 39–21278 (85 FR 64963, October 14, 2020), and

■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2021–0372; Project Identifier MCAI–2020–01684–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 6, 2021.

(b) Affected ADs

This AD replaces AD 2020–21–05, Amendment 39–21278 (85 FR 64963, October 14, 2020) (AD 2020–21–05).

(c) Applicability

This AD applies to all Airbus SAS airplanes, certificated in any category, and identified in paragraphs (c)(1) through (9) of this AD.

(1) Model A330–223F and –243F airplanes.

(2) Model A330–201, –202, –203, –223, and –243 airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A330–841 airplanes.

(5) Model A330–941 airplanes.

(6) Model A340–211, –212, and –213 airplanes.

(7) Model A340–311, –312, and –313 airplanes.

(8) Model A340–541 airplanes.

(9) Model A340–642 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by reports of a fuel pump showing cavitation erosion that exposed the fuel pump power supply wires, and by a determination that certain compliance times need to be revised and that additional airplanes are subject to the unsafe condition. The FAA is issuing this AD to address fuel pump erosion caused by cavitation. If this condition is not addressed, a pump running dry could result in a fuel tank explosion and consequent loss of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0283, dated December 17, 2020; corrected December 24, 2020 (EASA AD 2020–0283).

(h) Exceptions to EASA AD 2020–0283

(1) Where EASA AD 2020–0283 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0283 does not apply to this AD.

(3) Where EASA AD 2020–0283 refers to the master minimum equipment list (MMEL), this AD refers to the operator's minimum equipment list (MEL).

(4) Where EASA AD 2020–0283 refers to ''13 December 2019 [the effective date of EASA AD 2019–0291 at original issue],'' this AD requires using ''November 18, 2020 (the effective date of AD 2020–21–05).''

(5) Where EASA AD 2020–0283 refers to ''17 November 2017 [the effective date of EASA AD 2017–0224],'' this AD requires using ''December 29, 2017 (the effective date of AD 2017–25–16, Amendment 39–19130 (82 FR 58718, December 14, 2017) (AD 2017–25–16).''

(6) Where paragraphs (8), (9), and (10) of EASA AD 2020–0283 specify to ''inform all flight crews, and, thereafter, operate the aeroplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0283 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2020–0283 that contains RC procedures and tests: Except as required by paragraph (j)(2) of this AD, RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

(1) For information about EASA AD 2020–0283, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* Internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0372.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3229; email *vladimir.ulyanov@faa.gov.*

Issued on May 15, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–10635 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2021–0334; FRL–10023–73–Region 7]

Air Plan Approval; Missouri; Restriction of Emissions From Lithographic and Letterpress Printing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Missouri State Implementation Plan (SIP) received on November 10, 2020. The submission revises a Missouri regulation that restricts volatile organic compound emissions from lithographic and letterpress printing operations in the St. Louis Metropolitan Area. Specifically, the state has revised this rule in order to clarify rule applicability, update incorporation by reference information, update test method reference, clarify definitions, and remove the unnecessary use of restrictive words to improve clarity. Approval of these revisions will ensure consistency between state and federally-approved rules.

DATES: Comments must be received on or before June 21, 2021.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R07–OAR–2021–0334 to *https://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be

posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Written Comments'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Larry Gonzalez, Environmental Protection Agency, Region 7 Office, Air Permitting Standards Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number (913) 551–7041; email address *gonzalez.larry@epa.gov*.

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

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA–R07–OAR–2021–0334, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

II. What is being addressed in this document?

The EPA is proposing to approve revisions to the Missouri SIP received on November 10, 2020. The revisions are to Title 10, Division 10 of the Code of State Regulations, 10 CSR 10–5.442 ''Control of Emissions From Lithographic and Letterpress Printing Operations'', which establishes emission limits for volatile organic compounds (VOCs) from lithographic and letterpress printing operations in St. Louis City and Jefferson, Franklin St. Louis, and St. Charles Counties (hereinafter referred to in this document as the ''St. Louis Area''). 10 CSR 10–5.442 is SIP approved in the Code of Federal Regulations at 40 CFR 52.1320(c).

These revisions, as discussed in section IV of this document, are largely administrative in nature and do not have a negative impact on air quality. The EPA's full analysis of the revisions is described in the technical support document (TSD) included in the docket for this action.

Missouri received five comments (four from the EPA) during the comment period. Missouri responded to all five comments, as noted in the State submission included in the docket for this action.

The EPA is proposing to approve the revisions to this rule because it meets the requirements of the Clean Air Act and will not have a negative impact on air quality.

III. Background

The EPA approved 10 CSR 10–5.442 ''Control of Emissions From Lithographic and Letterpress Printing Operations'', into the Missouri SIP as a reasonably available control technology (RACT) rule for the St. Louis area on January 23, 2012 (January 23, 2012, 77 FR 3144). 10 CSR 10–5.442 is SIP approved in the Code of Federal Regulations at 40 CFR 52.1320(c). Amendments to this state rule that became effective August 30, 2011, addressed an updated Control Techniques Guideline issued by the EPA in September 2006 for Offset Lithographic Printing and Letterpress Printing. These amendments provided more stringent RACT control levels and represent RACT under the 8-hour ozone National Ambient Air Quality Standards (NAAQS) in effect at the time of approval into the SIP by the EPA in January 2012.

IV. What is the EPA's analysis of Missouri's SIP revision request?

In 2019, Missouri revised 10 CSR 10–5.442 to include a date in the applicability section. As a result of the EPA's comment on the state's proposed rule revisions, Missouri revised the applicability date of this rule to apply to sources existing at the time when the most recent amendments to the rule, as approved into the SIP, became effective. Specifically, Missouri revised subsection (1)(A) to specify the applicability date of the rule for installations existing on August 30, 2011, in accordance with section 172(c)(1) of the CAA.[1]

Additionally, the revisions to the rule text submitted by Missouri on November 10, 2020, do not alter the control requirements for installations already subject to the rule. Furthermore, any new sources or major modifications of existing sources are subject to new source review (NSR) permitting. Under NSR, a new major source or major modification of an existing source with a PTE of 250 tons per year (tpy)[2] or more of any National Ambient Air Quality Standard (NAAQS) pollutant is required to obtain a Prevention of Significant Deterioration (PSD) permit when the area is in attainment or unclassifiable, which requires an analysis of Best Available Control Technology (BACT) in addition to an air quality analysis and an additional impacts analysis. Sources with a PTE greater than 100 tpy, but less than 250 tpy,[3] are required to obtain a minor permit in accordance with Missouri's NSR permitting program, which is approved into the SIP.[4] Further, a new major source or major modification of an existing source with a PTE of 100 tpy or more of any NAAQS pollutant is required to obtain a nonattainment (NA) NSR permit when the area is in nonattainment, which requires an analysis of Lowest Achievable Emission Rate (LAER) in addition to an air quality analysis, an additional impacts analysis and emission offsets. Other revisions to the rule are administrative in nature. See the TSD included in the docket for this action for the EPA's full analysis of the rule revisions submitted by Missouri on November 10, 2020.

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

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR

[1] The EPA agrees with Missouri's interpretation of CAA section 172(c)(1) in regard to whether RACT is required for existing sources, but also notes that the State regulation establishing RACT may apply to new sources as well, dependent upon the State regulation's language.

[2] The PSD major source threshold for certain sources is 100 tpy rather than 250 tpy (see 40 CFR 52.21(b)(1)(i)(*a*) and 10 CSR 10–6.060(8)(A)).

[3] Except for those sources with a PSD major source threshold of 100 tpy.

[4] EPA's latest approval of Missouri's NSR permitting program rule was published in the **Federal Register** on October 11, 2016 (81 FR 70025).

51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided public notice of the revisions from May 01, 2019, to August 01, 2019, and held a public hearing on July 25, 2019. The state received and addressed five comments (four being from the EPA). As explained in more detail in the TSD which is part of this docket, the SIP revision submission meets the substantive requirements of the CAA, including section 110 and implementing regulations.

VI. What action is the EPA taking?

The EPA is proposing to amend the Missouri SIP by approving the State's request to revise 10 CSR 10–5.442, ''Control of Emissions From Lithographic and Letterpress Printing Operations.'' Approval of these revisions will ensure consistency between state and federally-approved rules. The EPA has determined that these changes meet the requirements of the Clean Air Act and will not have a negative impact to air quality.

The EPA is processing this as a proposed action because we are soliciting comments on the action. Final rulemaking will occur after consideration of any comments.

VII. Incorporation by Reference

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

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act (CAA), the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, if 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 the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

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

Dated: May 17, 2021.

Edward H. Chu,

Acting Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising entry ''10–5.442'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
*	*	*	*	*
10–5.442	Control of Emissions from Lithographic and Letterpress Printing Operations.	01/30/2020	[Date of publication of the final rule in the **Federal Register**], [**Federal Register** citation of the final rule].	
*	*	*	*	*

* * * * *

[FR Doc. 2021–10783 Filed 5–20–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[EPA–HQ–OPPT–2021–0174; FRL–10023–55]

Petition for Rulemaking Under TSCA; Reasons for Agency Response; Denial of Requested Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Petition for rulemaking; denial; reasons for Agency response.

SUMMARY: This document announces the availability of EPA's response to a portion of the petition it received February 8, 2021, from People for Protecting Peace River, Center for Biological Diversity, and 16 other organizations. While the petition requested three actions related to TSCA, EPA has determined that only one of those actions is an appropriate request: A request to issue a test rule under TSCA requiring testing of phosphogypsum and process wastewater from phosphoric acid production. EPA is treating the other portions of the petition involving TSCA as a petition under the Administrative Procedure Act (APA); those other portions request EPA to initiate the prioritization process for designating phosphogypsum and process wastewater as high-priority substances for risk evaluation, and to make a determination by rule under TSCA that the use of phosphogypsum in road construction is a significant new use. Therefore, this document does not provide EPA's response to these two TSCA-requested actions. Also, this document does not address the petitioners' requests under the Resource Conservation and Recovery Act (RCRA). After careful consideration, EPA has denied the TSCA section 21 portion of the petition for the reasons set forth in this document.

DATES: EPA's response to this TSCA section 21 petition was signed May 5, 2021.

ADDRESSES: The docket for this TSCA section 21 petition, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0174, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Public Reading Room are closed to visitors with limited exceptions. The EPA/DC staff continue to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Brooke Porter, Existing Chemicals Risk Management Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–6388; email address: *porter.brooke@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those persons who manufacture (including import), distribute in commerce, process, use, or dispose of phosphogypsum and process wastewater. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. What is EPA's authority for taking this action?

Under TSCA section 21 (15 U.S.C. 2620), any person can petition EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under TSCA sections 4, 6, or 8, or to issue an order under TSCA sections 4, 5(e), or 5(f). A TSCA section 21 petition must set forth the facts which it is claimed establish that it is necessary to initiate the action requested. EPA is required to grant or deny the petition within 90 days of its filing. If EPA grants the petition, the Agency must promptly commence an appropriate proceeding. If EPA denies the petition, the Agency must publish its reasons for the denial in the **Federal Register**. A petitioner may commence a civil action in a U.S. district court seeking to compel initiation of the requested proceeding within 60 days of a denial or, if EPA does not issue a decision, within 60 days of the expiration of the 90-day period.

C. What criteria apply to a decision on this TSCA section 21 petition?

1. Legal Standard Regarding TSCA Section 21 Petitions

TSCA section 21(b)(1) requires that the petition ''set forth the facts which it is claimed establish that it is necessary'' to initiate the proceeding requested. 15 U.S.C. 2620(b)(1). Thus, TSCA section 21 implicitly incorporates the statutory standards that apply to the requested actions. Accordingly, EPA has relied on the standards in TSCA section 21 and in the provisions under which actions have been requested in evaluating this TSCA section 21 petition.

2. Legal Standard Regarding TSCA Section 4(a)(1)(A)(i)

EPA must make several findings in order to require testing under TSCA section 4(a)(1)(A)(i) through a rule or order. EPA must find that the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment; that information and experience are insufficient to reasonably determine or predict the effects of such activity or activities on health or the environment; and that testing of the chemical substance or mixture is necessary to develop the missing information. 15 U.S.C. 2603(a)(1)(A)(i).

3. Legal Standard Regarding TSCA Section 4(a)(1)(A)(ii)

EPA must make several findings in order to require testing under TSCA section 4(a)(1)(A)(ii) through a rule or order. EPA must find that the chemical substance or mixture is or will be produced in substantial quantities, and it enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to such substance or mixture; that information and experience are insufficient to reasonably determine or predict the effects of the manufacture, distribution in commerce, processing, use, and/or disposal of the chemical substance or mixture on health or the environment; and that testing of the

chemical substance or mixture is necessary to develop the missing information. 15 U.S.C. 2603(a)(1)(A)(ii).

4. Legal Standard Regarding TSCA Section 26

TSCA section 26(h) requires EPA, in carrying out TSCA sections 4, 5, and 6, to make science-based decisions using ''scientific information, technical procedures, measures, methods, protocols, methodologies, or models, employed in a manner consistent with the best available science,'' while also taking into account other considerations, including the relevance of information and any uncertainties. 15 U.S.C. 2625(h). TSCA section 26(i) requires that decisions under TSCA sections 4, 5, and 6 be ''based on the weight of scientific evidence.'' 15 U.S.C. 2625(i). TSCA section 26(k) requires that EPA consider information that is reasonably available in carrying out TSCA sections 4, 5, and 6. 15 U.S.C. 2625(k).

5. Legal Standard Regarding Mixtures Under TSCA Section 4(a)(1)(B) and Section 21(b)(4).

In the case of a mixture, per TSCA section 4(a)(1)(B), EPA must also find that the effects which the mixture's manufacture, distribution in commerce, processing, use, or disposal, or any combination of such activities, may have on health or the environment may not be reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture. 15 U.S.C. 2603(a)(1)(B). In addition, TSCA section 21 establishes standards a court must use to decide whether to order EPA to initiate rulemaking in the event of a lawsuit filed by the petitioner after denial of a TSCA section 21 petition. 15 U.S.C. 2620(b)(4)(B). EPA believes TSCA section 21(b)(4) does not provide for judicial review of a petition to promulgate a test rule for mixtures. TSCA section 21(b)(4)(B)(i) specifies that the court's review pertains to application of the TSCA section 4 factors to chemical substances. Moreover, TSCA section 21(b)(4)(B)(i) does not contain the additional finding that TSCA section 4 requires for issuing a test rule for mixtures (that the effect may not be reasonably and more efficiently determined or predicted by testing the chemical components). Congress left the complex issues associated with the testing of mixtures to the Administrator's discretion.

II. Summary of the TSCA Section 21 Petition

A. What action was requested?

On February 8, 2021, the People for Protecting Peace River, Atchafalaya Basinkeeper, Bayou City Waterkeeper, Calusa Waterkeeper, Center for Biological Diversity, Cherokee Concerned Citizens, Healthy Gulf, ManaSota-88, Our Santa Fe River, RISE St. James, Sierra Club's Florida and Delta chapters, Suncoast Waterkeeper, Suwanee Riverkeeper, Tampa Bay Waterkeeper, Waterkeeper Alliance, Waterkeepers Florida, and WWALS Watershed Coalition (the petitioners) requested EPA to take several actions under section 7004(a) of RCRA; section 21 of TSCA; and section 553 of the APA related to phosphogypsum and process wastewater from phosphoric acid production (process wastewater). With respect to TSCA, the petition asks EPA to (1) initiate the prioritization process for designating phosphogypsum and process wastewater as high-priority substances for risk evaluation under TSCA section 6(b)(1)(B)(i), (2) issue a test rule under TSCA section 4(a)(1)(A) requiring phosphogypsum and process wastewater manufacturers to develop information with respect to health and environmental effects relevant to a determination that the disposal of these chemical substances does or does not present an unreasonable risk of injury to health or the environment, and (3) make a determination by rule under TSCA section 5(a) that the use of phosphogypsum in road construction is a significant new use. This **Federal Register** document specifically addresses the petitioners' TSCA section 21 petition, requesting EPA to issue a test rule under TSCA section 4(a)(1)(A). As described in Unit II.A.1 and II.A.2, this **Federal Register** document does not address the TSCA-requested actions which cannot be addressed under TSCA section 21 (*i.e.,* action under TSCA section 6(b)(1)(B)(i) and section 5(a)), and EPA will consider taking such action in response to those requests, as appropriate, under the APA. This **Federal Register** document also does not address the petitioners' requests under section 7004(a) of RCRA.

1. Request for Prioritization Under TSCA Section 6 and Related Testing Under TSCA section 4(a)(2)(B)

With respect to actions under section 6 of TSCA, TSCA section 21 provides only for the submission of a petition seeking the initiation of a proceeding for the issuance, amendment, or repeal of a rule under TSCA section 6(a). Prioritization under TSCA section 6(b) is distinct from rulemaking under TSCA section 6(a). Because TSCA section 21 does not provide an avenue for petitioners to request the initiation of the prioritization process for phosphogypsum and process wastewater, EPA is treating this portion of the request as a petition for action under the APA.

Petitioners also assert that ''should EPA initiate prioritization but find that the development of new information is necessary to finalize a prioritization decision for phosphogypsum and process wastewater, EPA should exercise its authority under section 4(a)(2)(B) to obtain that information and establish priority'' (Ref. 1, page 41). Because EPA is not addressing the request for prioritization as part of this petition response and has not otherwise initiated prioritization on phosphogypsum or process wastewater, the Agency is not in a position to exercise its authority under TSCA section 4(a)(2)(B) in the manner and for the reason described by petitioners.

2. Request for Significant New Use Rule Under TSCA Section 5

TSCA section 21 does not provide for the submission of a petition seeking the initiation of a rule under TSCA section 5. Significant new use rules are issued under the authority of TSCA section 5(a)(2). Since TSCA section 21 does not provide an avenue for petitioners to request the initiation of a proceeding to make a determination by rule under TSCA section 5(a), EPA is treating this portion of the request as a petition for action under the APA.

3. Request for Issuance of a Test Rule Under TSCA Section 4(a)(1)(A)

TSCA section 21 does provide for the submission of a petition seeking issuance of a test rule under TSCA section 4(a)(1)(A). Therefore, this **Federal Register** document specifically addresses the only request permissible under TSCA section 21, requesting EPA to issue a test rule under TSCA section 4(a)(1)(A).

4. Request Under RCRA Section 7004(a)

This **Federal Register** document does not address the petitioners' requests under section 7004(a) of RCRA.

5. Request Under APA Section 553(e)

This **Federal Register** document does not address the petitioners' requests under section 553(e) of the APA.

B. What support did the petitioners offer?

The petitioners are not clear as to the provision of TSCA section 4(a)(1)(A)

under which they are seeking a test rule. On pages 13 and 14 of the petition, for example, petitioners list the criteria to evaluate the request for testing under TSCA section 4(a)(1)(A)(i). However, in addition, the petition also includes reference to TSCA section 4(a)(1)(A)(ii). Because the petitioners were not clear whether they were seeking testing under TSCA section 4(a)(1)(A)(i) or 4(a)(1)(A)(ii), EPA considered the criteria in both sections in evaluating the petition. Additionally, because petitioners did not indicate whether the requested testing would pertain to mixtures or to individual chemical substances within a mixture, EPA considered both in evaluating the petition.

1. May Present an Unreasonable Risk of Injury to Health or the Environment or Produced in Substantial Quantities

The petitioners claim that phosphogypsum and process wastewater located across the United States may present an unreasonable risk of injury to human health and the environment under TSCA section 4(a)(1)(A)(i)(I). The petitioners claim that in EPA's 1991 regulatory determination under the Bevill Amendment to RCRA (section 3001(b)(3)(A) of RCRA), regarding the exemption of processing ores and minerals, including phosphate rock, EPA indicated that phosphogypsum and process wastewater were more appropriate to address under a TSCA regulatory program. The petitioners make a general assertion that ''EPA's investigation of a TSCA regulatory program to manage phosphogypsum and process wastewater means these substances not only may, but do, pose an unreasonable risk of injury to human health and the environment'' (Ref. 1, page 40). The petitioners point to the following studies and contend that worker exposure at phosphate fertilizer plants is associated with adverse health effects, however, an exposure-response relationship could not be established in these studies:

- Yiin, JH *et al.,* 2016 (Ref. 2); and
- Kim, Kwang Po *et al.,* 2006 (Ref. 3).

In addition, petitioners include information regarding the toxicity of several chemical substances they indicate are ''phosphogypsum constituents'' (arsenic, lead, nickel, cadmium, chromium, silver, antimony, copper, mercury, and thallium), as well as information on radionuclides (uranium, thorium, and radium) (Ref. 1, pages 19–23).

As support for the claim that phosphogypsum and process wastewater are produced in substantial quantities under TSCA section 4(a)(1)(A)(ii)(I), petitioners provide information about the size of phosphogypsum stacks, the amount of phosphogypsum produced annually, and the volume of process wastewater that can be stored in stacks (Ref. 1). Regarding production in substantial quantities, petitioners point to an EPA web page indicating that phosphogypsum is produced in quantities of 5.2 tons for every ton of phosphoric acid produced (Ref. 4). In addition, petitioners cite to information indicating that approximately 46 million tons of phosphogypsum are created in the United States annually (Ref. 5).

2. Insufficient Information and Experience

Without providing supporting rationale, the petitioners assert that updated information is needed, including:

- Information on ''population-level exposure risks'' for radionuclides and radon emissions for phosphogypsum stacks; and
- Information on the number and size of the phosphogypsum stacks.

The petitioners also state that the majority of the available phosphogypsum and process wastewater research is focused on potential commercial uses, rather than toxicity and other health and environmental effects relevant to an unreasonable risk finding (Ref. 1, page 40).

3. Testing of Such Substance or Mixture With Respect to Such Effects Is Necessary To Develop Such Information

The petitioners claim that a TSCA section 4 ''testing rule is necessary to fill gaps in current science and to better inform a future risk evaluation,'' citing the need for updated information on ''population-level exposure risks'' for radionuclide and radon emissions for phosphogypsum stack systems since the population around each phosphogypsum stack has likely increased (Ref. 1, page 40). The petitioners also claim it is necessary to update toxicity information using the Toxicity Characteristic Leaching Procedure (TCLP) method (Ref. 1, page 40). The petitioners provide no further information identifying specific gaps in the TCLP information already available, or why additional testing is necessary under TSCA section 4(a)(1)(A).

III. Disposition of TSCA Section 21 Portion of the Petition

A. What is EPA's response?

After careful consideration, EPA has denied the TSCA section 21 portion of the petition. A copy of the Agency's response, which consists of the letter to the petitioners and this document, is posted on the EPA petition website at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/tscasection-21#reporting.* The response, the petition (Ref. 1), and other information is available in the docket for this TSCA section 21 petition (see **ADDRESSES**).

B. What was EPA's reason for this response to the request for testing under TSCA section 4?

TSCA section 21 does provide for the submission of a petition seeking the initiation of a proceeding for the issuance of a rule under TSCA section 4. The petition must ''set forth the facts which it is claimed establish that it is necessary to issue'' the requested rule. 15 U.S.C. 2620(b)(1). When determining whether the petition meets that burden, EPA will consider whether the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or any combination of such activities, may present an unreasonable risk of injury to health or the environment under TSCA section 4(a)(1)(A)(i)(I), or whether the chemical substance or mixture is or will be produced in substantial quantities, and it enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to such substance or mixture under TSCA section 4(a)(1)(A)(ii)(I). In addition, EPA will consider whether ''information available to the Administrator is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance or mixture.'' 15 U.S.C. 2620(b)(4)(B)(i)(I) (see also 15 U.S.C. 2603(a)(1)). Furthermore, EPA's decision to grant a petition for the promulgation of a TSCA section 4 rule requires a finding that ''testing of such substance or mixture with respect to such effects is necessary to develop such information.'' 15 U.S.C. 2603(a)(1). In the case of a mixture, the petitioners must set forth facts to establish that the effects of the mixture would not be ''reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture.'' 15 U.S.C. 2603(a)(1).

EPA evaluated the information presented or referenced in the petition

and considered that information in the context of the applicable authorities and requirements of TSCA sections 4, 21, and 26. Notwithstanding that the burden is on the petitioners to present ''the facts which it is claimed establish that it is necessary'' for EPA to initiate the rule or issue the order sought, EPA nonetheless also considered relevant information that was reasonably available to the Agency during the 90-day petition review period. As detailed in Unit III.B.2 and III.B.3, EPA finds that the petitioners have not met their burden as defined in TSCA sections 4(a)(1)(A) and 21(b)(1) because the petitioners have not provided the facts necessary for the Agency to determine for phosphogypsum and process wastewater that existing information and experience are insufficient and testing with respect to such effects is necessary to develop such information. These deficiencies, among other findings, are detailed in this document.

1. May Present Unreasonable Risk of Injury to Health or the Environment or Produced in Substantial Quantities

EPA is not opining on the sufficiency of the information presented for purposes of determining whether phosphogypsum or process wastewater may present unreasonable risk because the Agency finds that petitioners have not provided the facts necessary for the Agency to determine that existing information and experience are insufficient and testing with respect to such effects is necessary to develop such information, as described in more detail below. However, EPA agrees that phosphogypsum and process wastewater are or will be produced in substantial quantities under TSCA 4(a)(1)(A)(ii)(I).

2. Insufficient Information and Experience

The petition does not set forth the facts necessary to demonstrate that there is ''insufficient information and experience'' on which the effects of phosphogypsum and process wastewater on health or the environment can reasonably be determined or predicted. The petitioners only claim that updated toxicity information using the TCLP method is necessary and assert that information available is from an outdated ''Extraction Procedure.'' However, EPA has found that there are TCLP data related to phosphogypsum and process wastewater available in the public domain (Ref. 6). The petitioners failed to present facts indicating the nature and extent of existing TCLP data and articulate why this data is insufficient. The petitioners do not provide an assessment of existing data to support a finding of insufficient information and experience. The petitioners present no evidence that they undertook efforts such as a literature search of publicly available information, an analysis and characterization of the results of such a literature search, or an inventory of information they claim is missing from the public domain.

Extensive information on the heavy metal chemical substances contained in phosphogypsum and process wastewater is readily available. For example, EPA has published Integrated Risk Information System (IRIS) assessments, which review existing information and characterize the hazards of chemicals, that are available for all of the heavy metals mentioned in the petition, as well as uranium (Ref. 7). Furthermore, the Agency for Toxic Substances and Disease Registry (ATSDR) has published Toxicological Profiles, which characterize the toxicologic and adverse health effects information for hazardous substances, for all of the metals, as well as for radon and the radionuclides referenced in the petition (Ref. 8). The petitioners make no mention of the IRIS assessments, nor have they provided the facts necessary to show that this extensive body of existing information on toxicological effects, including the ATSDR Toxicological Profiles cited in the petition, is insufficient. TSCA section 21 requires the petitioner, not EPA, to ''set forth the facts which it is claimed establish that it is necessary to issue, amend, or repeal a rule under TSCA sections 4, 6, or 8, or an order under TSCA sections 4 or 5(e).'' 15 U.S.C. 2620. Therefore, petitioners have failed to meet their burden.

3. Testing of Such Substance or Mixture With Respect to Such Effects Is Necessary To Develop Such Information

The petition did not include any data, information, or analysis related to the need for testing of phosphogypsum and process wastewater or for the chemical substances, including the heavy metals and radionuclides contained in phosphogypsum and process wastewater. A petition without such information is facially incomplete because it fails to provide minimum factual information for EPA to make the threshold findings needed to respond to and act on the petition as contemplated by TSCA section 21. Even if the petitioners had successfully demonstrated the insufficiency of existing information, they still failed to demonstrate that testing of phosphogypsum and process wastewater is needed to develop the necessary information that they claim does not exist. Importantly, the petitioners provided no information regarding how testing by manufacturers of phosphogypsum and process wastewater would provide the sort of health and environmental effects data that petitioners believe is necessary. The petitioners could have presented information about the types of tests that could be conducted, including some analysis of the methods that could be used to identify the data or information submitted or used, hazard thresholds recommended, and exposure estimates. Beyond an assertion that TCLP data is not available, the petitioners did not include any information on what type of testing they claim is needed.

4. Testing as a Mixture

Petitioners do not indicate whether the requested testing would pertain to mixtures or to individual chemical substances within a mixture. With regard to testing phosphogypsum and process wastewater as a mixture, petitioners have not set forth facts sufficient to support the required finding for mixtures under TSCA section 4(a)(1): That the effects of phosphogypsum and process wastewater would not be ''reasonably and more efficiently determined or predicted by testing the chemical substances which comprise the mixture.'' 15 U.S.C. 2603(a)(1). EPA has broad discretion to make this finding, and although petitioners did not specify whether their request was for testing of phosphogypsum and process wastewater as a mixture, EPA does not, at this time, believe this finding is warranted.

5. Environmental Justice Considerations

Petitioners express environmental justice concerns and include examples of a phosphogypsum and process wastewater facility near a historic Black neighborhood, and another facility in a region of Louisiana which they state has environmental justice concerns related to impacts from a variety of industrial activities (Ref. 1, pages 36–38).

As a general matter, EPA shares the petitioners' concerns regarding the potential for disproportionate impacts in communities with environmental justice concerns. However, petitioners must set forth the facts which it is claimed establish that it is necessary to issue a rule or order requiring testing under TSCA section 4(a)(1)(A). As petitioners have not set forth facts sufficient for EPA to make these findings, EPA is not able to issue a test

rule under TSCA section 4 in response to this TSCA section 21 petition.

6. What were EPA's conclusions?

EPA denied the request to initiate a proceeding for the issuance of a rule under TSCA section 4 because the TSCA section 21 petition does not set forth the facts establishing that it is necessary for the Agency to issue such a rule. In particular, the petition does not demonstrate that existing information and experience on the effects of phosphogypsum and process wastewater are insufficient or that testing of phosphogypsum and process wastewater with respect to such effects is necessary to develop such information. Therefore, the petitioners have not demonstrated that the rule they requested is necessary.

IV. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT.**

1. Curran, Rachael, People for Protecting Peace River, and Lopez, Jaclyn, Center for Biological Diversity to the Administrator of the Environmental Protection Agency. Re: Petition for Rulemaking Pursuant to Section 7004(a) of the Resource Conservation and Recovery Act; Section 21 of the Toxic Substances Control Act; and Section 553 of the Administrative Procedure Act Concerning the Regulation of Phosphogypsum and Process Wastewater from Phosphoric Acid Production. Received February 8, 2021.
2. Yiin, JH *et al.* A study update of mortality in workers at a phosphate fertilizer production facility. *American Journal of Industrial Medicine* 59(1):12–22. January 2016. *https://doi.org/10.1002/ajim.22542.*
3. Kim, Kwang Po *et al.* Characterization of Radioactive Aerosols in Florida Phosphate Processing Facilities. *Aerosol Science and Technology* 40(6):410–421. February 2006. *https://doi.org/10.1080/02786820600643313.*
4. EPA. TENORM: Fertilizer and Fertilizer Production Wastes. April 7, 2021. *https://www.epa.gov/radiation/tenorm-fertilizer-and-fertilizer-production-wastes.*
5. The Fertilizer Institute. Revised Request for Approval of Additional Uses of Phosphogypsum Pursuant to 40 CFR 61.206. April 2020. *https://www.epa.gov/sites/production/files/2020-10/documents/4-7-2020_pg_petition.pdf.*
6. EPA. Mosaic Fertilizer, LLC Settlement. September 16, 2020. *https://www.epa.gov/enforcement/mosaic-fertilizer-llc-settlement.*
7. EPA. Integrated Risk Information System. March 26, 2021. *https://www.epa.gov/iris.*
8. Agency for Toxic Substances and Disease Registry. March 16, 2021. *https://www.atsdr.cdc.gov/toxprofiledocs/index.html.*

Authority: 15 U.S.C. 2601 *et seq.*

Michal Freedhoff,

Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–09998 Filed 5–20–21; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 830

[Docket No.: NTSB–2021–0004]

RIN 3147–AA20

Amendment to the Definition of Unmanned Aircraft Accident

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The National Transportation Safety Board (NTSB) proposes amending the definition of ''Unmanned aircraft accident'' by removing the weight-based requirement and replacing it with an airworthiness certificate or airworthiness approval requirement. The weight threshold is no longer an appropriate criterion because unmanned aircraft systems (UAS) under 300 lbs. are operating in high-risk environments, such as beyond line-of-sight and over populated areas. The proposed definition will allow the NTSB to be notified of and quickly respond to UAS events with safety significance.

DATES: Send comments on or before July 20, 2021.

ADDRESSES: You may send comments, identified by Docket Number (No.) NTSB–2021–0004, by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.*
- *Email: rulemaking@ntsb.gov.*
- *Fax:* 202–314–6090.
- *Mail/Hand Delivery/Courier:* NTSB, Office of General Counsel, 490 L'Enfant Plaza East SW, Washington, DC 20594.

Instructions: All submissions in response to this NPRM must include Docket No. NTSB–2021–0004. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket, go to *http://www.regulations.gov and search* Docket No. NTSB–2021–0004.

FOR FURTHER INFORMATION CONTACT: Kathleen Silbaugh, General Counsel, (202) 314–6080, *rulemaking@ntsb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NTSB prescribes regulations governing the notification and reporting of accidents involving civil aircraft. As an independent federal agency charged with investigating and establishing the facts, circumstances, and probable cause of every civil aviation accident in the United States, the NTSB has an interest in redefining a UAS accident in light of recent developments in the industry.

For NTSB purposes, ''unmanned aircraft accident'' means an occurrence associated with the operation of an unmanned aircraft that takes place between the time that the system is activated with the purpose of flight and the time that the system is deactivated at the conclusion of its mission, and in which any person suffers death or serious injury, or in which the aircraft has a maximum gross takeoff weight of 300 lbs. or greater and receives substantial damage.

At the time this definition was contemplated, the weight-based requirement was necessary because defining an accident solely on ''substantial damage'' would have required investigations of numerous small UAS crashes with no significant safety issues. *See* Final Rule, 75 FR 51953, 51954 (Aug. 24, 2010). Consequently, there is no legal requirement to report or for the NTSB to investigate events involving substantial damage to UAS weighing less than 300 lbs. because these are not recognized ''unmanned aircraft accidents'' under the NTSB's regulations. While this definition ensured that the NTSB expended resources on UAS events involving the most significant risk to public safety, the advent of higher capability UAS applications—such as commercial drone delivery flights operating in a higher risk environment (*e.g.,* populated areas, beyond line-of-sight operations, etc.)—has prompted the agency to propose an updated definition of ''unmanned aircraft accident.'' Moreover, in the August 24, 2010, Final Rule, the NTSB anticipated future updates of the definition given the evolving nature of UAS technology and operations. *Id.*

II. Airworthiness Certification/ Approval

The NTSB believes that an updated definition is necessary given the changing UAS industry. Pursuant to section 44807 of the Federal Aviation Administration (FAA) Reauthorization Act of 2018 (Reauthorization Act), the FAA has recently promulgated proposed rulemaking regarding UAS. Section 44807 directed the Department of Transportation to use a risk-based approach to determine if certain UAS may operate safely in the national airspace. A number of drone delivery operations, among other applications, have begun using: (1) FAA Special Airworthiness Certificates—Experimental, or (2) approvals under the exemption processes per section 44807 of the Reauthorization Act that allows the FAA to grant exemptions on an individual basis. As drone delivery and other applications develop, airworthiness certification will become more prevalent for certain unmanned aircraft similar to that of manned aircraft.

Therefore, an unmanned aircraft—of any size or weight—used for certain activities will require airworthiness certification or approvals due to higher risk potential, such as flights over populated areas for deliveries. Moreover, a substantially-damaged delivery drone may uncover significant safety issues, the investigation of which may enhance aviation safety through the independent and established NTSB process. This proposed definition change will treat a UAS with airworthiness certification or airworthiness approval in the same manner as a manned aircraft with airworthiness certification or airworthiness approval, thereby enabling the NTSB to immediately investigate, influence corrective actions, and propose safety recommendations.

Accordingly, the proposed definition will be flexible to account for changes in the UAS industry and will allow the NTSB to respond quickly to UAS events with safety significance, while not burdening the agency or public with unnecessary responses.

III. Unaffected Regulations

A. 49 CFR 830.2 Aircraft Accident

There is no change to the current definition of ''aircraft accident'' for those events in which death or serious injury occurs regardless of weight or airworthiness status.

B. 14 CFR Part 107 Small Unmanned Aircraft Systems

The proposed definition will only affect those operations under 14 CFR part 107 that apply to small UAS that weigh less than 55 lbs. and hold an airworthiness certificate. As for the remaining small UAS operated under part 107 that do not hold airworthiness certificates or approvals, the ''airworthiness certificate or approval'' criteria in the proposed definition will not apply; only events resulting in serious injury or death will be categorized as an ''accident.''

C. Section 349 of the Reauthorization Act

This proposed definition will not affect hobbyist/modeler operations. The NTSB does not intend to investigate such accidents.

IV. Regulatory Analysis

Because the NTSB is an independent agency, this rule does not require an assessment of its potential costs and benefits under section 6(a)(3) of Executive Order (E.O.) 12866, Regulatory Planning and Review, 58 FR 51735 (Sept. 30, 1993). In addition, the NTSB has considered whether this rule would have a significant economic impact on a substantial number of small entities, under the Regulatory Flexibility Act (5 U.S.C. 601–612). The NTSB certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

The NTSB does not anticipate this rule will have a substantial, direct effect on state or local governments or will preempt state law; as such, this rule does not have implications for federalism under E.O. 13132, Federalism, 64 FR 43255 (Aug. 4, 1999).

This rule complies with all applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, 61 FR 4729 (Feb. 5, 1996), to minimize litigation, eliminate ambiguity, and reduce burden. The NTSB has evaluated this rule under: E.O. 12898, Federal Actions to Address Environmental Judice in Minority Populations and Low-Income Populations, 59 FR 7629 (Feb. 16, 1994); E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, 62 FR 19885 (Apr. 21, 1997); E.O. 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 6, 2000); E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355 (May 18, 2001); and the National Environmental Policy Act, 42 U.S.C. 4321–47. Pursuant to the Paperwork Reduction Act, the NTSB has determined that there is no new requirement for information collection associated with this proposed rule. The NTSB has concluded that this NPRM neither violates nor requires further consideration under those orders and statutes.

The NTSB has concluded that this proposed rule neither violates nor requires further consideration under the aforementioned Executive orders and acts.

List of Subjects in 49 CFR Part 830

Air transportation, Aircraft accidents, Aircraft incidents, Airworthiness directives and standards, Aviation safety, Drones, Investigations, Reporting and recordkeeping requirements, Safety, Unmanned aircraft systems.

The Chairman of the National Transportation Safety Board, Robert L. Sumwalt, III, having reviewed and approved this document, is delegating the authority to electronically sign this document to Brian Curtis, who is the Deputy Managing Director for Investigations, for purposes of publication in the **Federal Register** during the COVID–19 pandemic.

Brian Curtis,

Deputy Managing Director for Investigations.

Accordingly, for the reasons stated in the Preamble, the NTSB proposes to amend 49 CFR part 830 as follows:

PART 830—NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

■ 1. The authority citation for part 830 continues to read as follows:

Authority: 49 U.S.C. 1101–1155; Pub. L. 85–726, 72 Stat. 731 (codified as amended at 49 U.S.C. 40101).

§ 830.2 [Amended]

■ 2. Amend § 830.2 in paragraph (2) of the definition of ''Unmanned aircraft accident'' by removing the phrase ''has a maximum gross takeoff weight of 300 pounds or greater'' and adding in its place ''holds an airworthiness certificate or approval''.

[FR Doc. 2021–09807 Filed 5–20–21; 8:45 am]

BILLING CODE 7533–01–P

Notices

Federal Register

Vol. 86, No. 97

Friday, May 21, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2020–0100]

Notice of Proposed Revision to Requirements for the Importation of Fresh Melon Fruit From Japan Into the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with the importation of fresh melon fruit with stems from Japan into the United States. Based on the analysis, we are proposing to revise the existing conditions for importation of melons from Japan, which do not currently allow the importation of melons with stems, and which do not authorize importation to the continental United States or most territories. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before July 20, 2021.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2020–0100 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2020–0100, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *www.regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, Imports, Regulations, and Manuals PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1231; (301) 851–2352.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart L–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 of the regulations provides requirements for authorizing the importation of fruits and vegetables into the United States and revises existing requirements for the importation of fruits and vegetables. Paragraph (c) of that section provides that the name and origin of all fruits and vegetables authorized importation into the United States, as well as the requirements for their importation, be listed on the internet in APHIS' Fruits and Vegetables Import Requirements database, or FAVIR (*https://epermits.aphis.usda.gov/manual*). It also provides that, if the Administrator of APHIS determines that any of the phytosanitary measures required for the importation of a particular fruit or vegetable are no longer necessary to reasonably mitigate the plant pest risk posed by the fruit or vegetable, APHIS will publish a notice in the **Federal Register** making its pest risk documentation and determination available for public comment.

Currently, fresh melon fruit *(Cucumis melo L.)* from Japan is listed in FAVIR as fruit authorized importation into Hawaii, and fresh cantaloupe fruit *(Cucumis melo ssp. melo var. cantalupensis)* and honeydew melon (*Cucumis melo* ssp. *melo* var. *inodorus*) are authorized importation into Guam and the Northern Mariana Islands from areas of Japan other than Amami, Bonin, Ryukyu, Tokara, and Volcano Islands. To be eligible for importation under the current requirements, the melon fruit must be certified as being hothouse grown on or north of Honshu Island and is subject to inspection at the U.S. port of entry.

APHIS received a request from the national plant protection organization (NPPO) of Japan, Ministry of Agriculture, Forestry and Fisheries, to revise the current import requirements and allow the importation of fresh melon fruits with stems into the entire United States. If we approve the request, the mitigation measures developed would supersede current importation requirements for fresh cantaloupe, honeydew melon, and melon from Japan.

As part of our evaluation of Japan's request, we have prepared a pest risk assessment (PRA) to identify pests of quarantine significance that could follow the pathway of importation of fresh melon fruit with stems into the United States from Japan. The PRA identified one quarantine pest—Cucumber green mottle mosaic virus (CGMMV)—as the only quarantine pest that could reasonably be expected to follow the pathway, and that the likelihood of introduction into the United States via fresh melon fruit with stems from Japan is low.

Based on the PRA, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to the fresh melon fruit with stems from Japan to mitigate the pest risk.

We have concluded that fresh melon fruit with stems can be safely imported from Japan into the United States using one or more of the five designated phytosanitary measures listed in § 319.56–4(b). These measures are summarized below and would also be listed in APHIS' Fruits and Vegetables Import Requirements database, available at *https://epermits.aphis.usda.gov/manual:*

- Fresh melon fruit with stems from Japan must be imported as commercial consignments only.
- Each consignment must be inspected and accompanied by a phytosanitary certificate issued by the Japanese NPPO stating that the melon fruit with stems are free of CGMMV.

• Each consignment is subject to inspection upon arrival in the United States.

Each of the pest risk mitigation measures that would be required, along with evidence of their efficacy in removing pests of concern from the pathway, are described in detail in the RMD.

Therefore, in accordance with § 319.56–4(c)(3), we are announcing the availability of our PRA and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh melon fruit with stems under the revised conditions, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of these documents by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh melon fruit with stems from Japan in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh melon fruit with stems from Japan into the entire United States subject to the revised requirements specified in this notice.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 17th day of May 2021.

Mark Davidson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2021–10706 Filed 5–20–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2015–0023]

Privacy Act of 1974; System of Records

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), and Office of Management and Budget Circular No. A–108, notice is given that the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (USDA) is proposing to add a new system of records, entitled USDA/APHIS–23, Integrated Plant Health Information System (IPHIS). This system maintains records of activities conducted pursuant to APHIS' mission and responsibilities authorized by the Plant Protection Act (7 U.S.C. 7701 *et seq.*); the Honey Bee Act (7 U.S.C. 281 *et seq.*); and the Food Conservation and Energy Act 2008 (7 U.S.C. 8791 *et seq.*).

DATES: This notice is effective upon publication, subject to a 30-day notice and comment period in which to comment on the routine uses described below. Comments, if any, must be submitted by June 21, 2021.

ADDRESSES: You may submit comments by either of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Enter APHIS–2015–0023 in the Search filed. Select the Documents tab, then select the comment button in the list of documents.

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2015–0023, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact Mr. Steven King, Information Technology Project Manager, Project Management Office, PPQ, APHIS, 4700 River Road, Riverdale, MD 20737; (301) 851–2118; *Steven.A.King@usda.gov.* For Privacy Act questions concerning this system of records notice, please contact Ms. Tonya Woods, Director, Freedom of Information and Privacy Act Staff, 4700 River Road Unit 50, Riverdale, MD 20737; (301) 851–4076; *Tonya.G.Woods@usda.gov.* For USDA Privacy Act questions, please contact the USDA Chief Privacy Officer, Information Security Center, Office of Chief Information Officer, USDA, Jamie L. Whitten Building, 1400 Independence Ave. SW, Washington, DC 20250; email: *USDAPrivacy@usda.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture's (USDA's), Animal and Plant Health Inspection Service (APHIS) is adding a new system of records, the Integrated Plant Health Information System (IPHIS), USDA/APHIS–23.

IPHIS is an information management system that APHIS uses to access, enter, and view data on plant health events that occur nationwide. IPHIS provides survey data, including locations, target pests, survey sample identification, and diagnostic test results; survey supply orders and inventory management; domestic emergency action notifications; and compliance agreements and inspection records to APHIS plant health personnel as well as cooperators outside the agency. Among other things, this information helps APHIS to prepare for plant pest and disease outbreaks and to monitor such outbreaks and devise effective responses to them; facilitate the export and interstate movement of agricultural products, including regulated articles; and communicate survey results to APHIS and APHIS contractors on a timely basis.

APHIS will share information from the system in accordance with the requirements of the Privacy Act. A full list of routine uses is included in the routine uses section of the document published with this notice.

A report on the new system of records, required by 5 U.S.C. 552a(r), as implemented by Office of Management and Budget Circular A–108, was sent to the Chairman, Committee on Homeland Security and Governmental Affairs, United States Senate; the Chairwoman, Committee on Oversight and Reform, House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.

Done in Washington, DC, this 17th day of May 2021.

Mark Davidson,

Administrator, Animal and Plant Health Inspection Service.

SYSTEM NAME AND NUMBER:

USDA/APHIS–23, Integrated Plant Health Information System (IPHIS).

SECURITY CLASSIFICATION:

Sensitive but unclassified.

SYSTEM LOCATION:

The Animal and Plant Health Inspection Service (APHIS) Plant Protection and Quarantine (PPQ) program maintains the system of records for IPHIS. The IPHIS master data system resides within the Microsoft Azure Government data centers located in Boydton, VA, as the primary site, and in San Antonio, TX, as a secondary site for redundant or any disaster recovery plans. The Microsoft Azure environment is managed by Marketing and Regulatory Program Information Technology. Azure Backup Center provides native integrations to existing Azure services that enable management of system and data backup. The Backup Center uses the Azure Policy experience to help govern backups. It also leverages Azure Workbooks and Azure Monitor Logs to help view detailed reports on backups to insure viability and consistency. Azure Backup stores backed-up data in vaults—Recovery Services vaults and Backup vaults. A vault is an online-storage entity in Azure that's used to hold data, such as backup copies, recovery points, and backup policies. Paper records generated from IPHIS are secured within the work units.

SYSTEM MANAGER:

Information Technology Project Manager, Project Management Office, PPQ, APHIS, 4700 River Road, Riverdale, MD 20737.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Plant Protection Act (7 U.S.C. 7701 *et seq.*); the Honey Bee Act (7 U.S.C. 281 *et seq.*); and the Food Conservation and Energy Act 2008 (7 U.S.C. 8791 *et seq.*).

PURPOSES OF THE SYSTEM:

IPHIS is a web-based data management system for use by APHIS plant health personnel as well as cooperators outside the agency (*e.g.,* diagnostic laboratories, State, Tribal, and local governments, and academia). PPQ uses IPHIS to access, enter, and view data for plant health events nationwide. The following data are contained and provided to IPHIS users: Survey data, including the name of the plant pest, noxious weed, or biological control organism, source of data, specific crop/host, location, and environment; survey method; survey location and GPS coordinates; pest absence/presence; diagnostic results, including sample identification and confirmation method; survey supply orders; inventory management; emergency action notifications; tracking and control documentation; and compliance agreements and inspection records. The information, as listed under categories of records, is collected, used, disseminated, or maintained to support the agency's mission to protect and promote food, agriculture, natural resources, and related issues.

The principle use of the information is for preparation, monitoring, and response to plant health-related issues. Specifically, the information will be used as an information tool to provide pest status and location and help cooperators from State, Tribal, and local governments, plant health officials, cooperators from academic institutions, and diagnostic laboratories to determine what effective action must be taken when a plant pest or noxious weed is found. Additional uses of the information will be to facilitate the export and interstate movement of agricultural products; to issue compliance agreements for the handling and interstate movement of regulated articles; to facilitate management of pests and beneficial organisms; to communicate the activities and results of survey detection to users on a timely basis; to monitor the distribution of pests; to respond to a plant health pest outbreak; to forecast survey supply needs; and to validate pest risk models. Certain IPHIS survey data that do not include personally identifiable information are exported to the National Agricultural Pest Information System (NAPIS). Purdue University owns and maintains NAPIS, which supports the web-based public interface pest tracker site for the Cooperative Agricultural Pest Survey Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Categories of individuals covered by this system include individuals who enter into compliance agreements with APHIS or who are identified in emergency action notifications, including members of the public such as property owners, residents, and farmers. The system also contains information on APHIS employees and contractors or other entities working on behalf of APHIS.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system collects information related to the point of contact for particular locations where surveys, seizures, and traces occur. The compliance agreement fields in IPHIS include the names, mailing addresses, and email addresses of individuals (property owners/residents) and business entities that handle regulated articles and agree to comply with the movement restrictions and domestic quarantine regulations. The emergency action notification fields in IPHIS contain the names, addresses, email addresses, and phone and fax numbers of owners or agents of regulated articles or regulated areas when agricultural officials have prescribed remedial measures due to agricultural pests. The system also includes information, such as names, addresses, email addresses, and phone and fax numbers, about APHIS employees and contractors or others working on behalf of APHIS.

The IPHIS system will also collect agricultural survey data that includes additional categories of records such as survey location and GPS coordinates.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from the members of the public; regulated individuals and entities; APHIS employees; other Federal, State, Tribal, and local government agencies; diagnostic laboratories; and university cooperators.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, records maintained in the system may be disclosed outside the U.S. Department of Agriculture (USDA), as follows:

(1) To cooperators from other Federal departments and their agencies; State, local, Tribal, and Territorial governments; plant health officials; cooperators from academic institutions; and diagnostic laboratories performing functions or working to respond to events declared to be emergencies of national significance determined to impact the U.S. critical infrastructure or other related emergency response functions performed for USDA, when necessary to accomplish an agency function related to this system of records;

(2) When a record on its face, or in conjunction with other records indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program, statute, or by regulation, rule, or order issued pursuant thereto, APHIS may disclose the record to the appropriate agency, whether Federal, foreign, State, Tribal, local, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative,

or prosecutive responsibility of the receiving entity;

(3) To the Department of Justice when: (a) USDA or any component thereof; or (b) any employee of USDA in his or her official capacity, or any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and USDA determines that the records are relevant and necessary to the litigation and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which USDA collected the records;

(4) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when USDA or other Agency representing USDA determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding;

(5) To appropriate agencies, entities, and persons when: (a) USDA suspects or has confirmed that there has been a breach of the system of records; (b) USDA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, USDA (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(6) To another Federal agency or Federal entity, when information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach;

(7) To Congressional office staff in response to an inquiry made at the written request of the individual to whom the record pertains;

(8) To contractors and their agents, grantees, experts, consultants, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for USDA, when necessary to accomplish an agency function related to this system of records; and

(9) To the National Archives and Records Administration (NARA) or to the General Services Administration for records management activities conducted under 44 U.S.C. 2904 and 2906.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

N/A.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper-based records are stored and maintained in USDA/APHIS offices in locked file cabinets that require presentation of employee identification for building admittance and access. Electronic records are maintained in an electronic database on a server in a secure data center or on the APHIS web server and website that is maintained by APHIS' Information Technology Division. Information Technology personnel maintain backup media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by any of the data entry fields included in categories of records such as the name of the property owner, resident, and/or farmer, address, phone, fax, and/or email address, etc. System users can also retrieve records by data entry fields associated with agricultural surveys or investigations including location, site, activity, or diagnostic sample.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

APHIS is working closely with NARA to update retention schedules. Records will be retained indefinitely pending NARA's approval of a records retention schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Physical security measures are in place to prevent unauthorized persons from accessing IPHIS. Electronic records are stored on secure file servers. IPHIS includes physical access controls, firewalls, intrusion detection systems, and system auditing to prevent unauthorized access. To access IPHIS, users are required to complete the USDA eAuthentication registration process and are validated through role-based authentication and authorization. Cooperators have signed a General Memorandum of Understanding in which they have agreed to safeguard the confidentiality of such data and prohibit unauthorized access to the data provided by APHIS. They also agree not to release any of the data provided by APHIS, and to refer any and all requests for the data provided to APHIS Legislative and Public Affairs, Freedom of Information and Privacy Act Office.

Paper files are kept in a safeguarded environment with controlled access only by authorized personnel. All IPHIS users are also required to complete appropriate training to learn requirements for safeguarding records maintained under the Privacy Act. Azure safeguards records and ensures that privacy requirements are met in accordance with Federal and cybersecurity mandates. Azure provides continuous storage management, security administration, regular dataset backups, and contingency planning/disaster recovery. Azure employs automated mechanisms to restrict access to media storage areas. This is done by requiring a successful multi-factor authentication to the APHIS Enterprise Infrastructure (AEI) on an authorized computing device which is a member of the AEI, and rights control based on administrator level special accounts. Azure also employs automated mechanisms to audit access attempts and access granted into these areas. This is done through the use of reports generated from the Azure Monitor Logs.

RECORD ACCESS PROCEDURES:

All requests for access to records must be in writing and should be submitted to the APHIS Privacy Act Officer, 4700 River Road Unit 50, Riverdale, MD 20737; or by facsimile (301) 734–5941; or by email *APHISPrivacy@usda.gov.* In accordance with 7 CFR 1.112 (Procedures for requests pertaining to individual records in a record system), the request must include the full name of the individual making the request; the name of the system of records; and preference of inspection, in person or by mail. In accordance with 7 CFR 1.113, prior to inspection of the records, the requester shall present sufficient identification (*e.g.,* driver's license, employee identification card, social security card, credit cards) to establish that the requester is the individual to whom the records pertain. In addition, if an individual submitting a request for access wishes to be supplied with copies of the records by mail, the requester must include with his or her request sufficient data for the agency to verify the requester's identity.

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their request to the address indicated in the ''RECORD ACCESS PROCEDURES''

paragraph, above and must follow the procedures set forth in 7 CFR 1.116 (Request for correction or amendment to record). All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

NOTIFICATION PROCEDURES:

Individuals may be notified if a record in this system of records pertains to them when the individuals request information utilizing the same procedures as those identified in the ''RECORD ACCESS PROCEDURES'' paragraph above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2021–10707 Filed 5–20–21; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Child Nutrition Programs: Non-Competitive Technology Innovation Grant Funding

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice and request for comment.

SUMMARY: This Notice announces the availability of non-competitive technology innovation grant funding, which will be distributed on a formula basis beginning in fiscal year (FY) 2021 among all eligible State agencies administering the Child Nutrition (CN) Programs and requests comment on this non-competitive approach. This non-competitive grant opportunity replaces the competitive CN Technology Innovation Grants (TIG) previously administered by FNS in FYs 2017 and 2019.

DATES: This non-competitive technology innovation grant funding is anticipated to be announced in late Spring 2021, and distributed to State agencies by late Summer 2021. Written comments must be received on or before June 21, 2021.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or comments concerning this notice may be sent to: J. Kevin Maskornick, Program Monitoring and Operational Support Division, Child Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, 1320 Braddock Place, Suite 401, Alexandria, Virginia 22314, 703–305–2537 or *kevin.maskornick@usda.gov* with subject line ''CNP Non-Competitive TIG Funding.'' Comments may also be sent through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

SUPPLEMENTARY INFORMATION: The non-competitive technology innovation grant funding was authorized by the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94) and Consolidated Appropriations Act, 2021 (Pub. L. 116–260). Eligible State agencies accepting the non-competitive technology innovation grant funding will be required to submit to FNS, via *www.grants.gov,* a brief application, including streamlined project and budget narratives, describing the State agency's intended use of the funding. State agencies will have three (3) years to expend the awarded funds and be required to submit bi-annual progress reports and quarterly financial reports to FNS. Final progress and financial status reports will be due 120 days after the termination date of the project. The public is invited to provide comment on the proposed use of the non-competitive grant funding approach described in this FR Notice.

In each FYs 2020 and 2021, FNS received $25 million in State funding for the purpose of developing, improving, and maintaining automated information technology systems used to operate and manage all CN Programs (*i.e.,* the National School Lunch Program, School Breakfast Program, Summer Food Service Program, and Child and Adult Care Food Program). In FY 2021, 54 States and territories (69 State agencies) are administering the CN Programs and therefore eligible to receive this funding. Funding will be offered by FNS to all eligible States and territories in an equal distribution based on total available funds for FYs 2020 and 2021 (*i.e.,* $50 million). In FY 2021, each State will be offered approximately $925,926 for the purposes described above; amounts available in future fiscal years will be subject to the availability of funds and formula adjustments as determined appropriate by FNS. In States where more than one (1) eligible agency administers the CN Programs, the funding will be divided proportionally among those agencies based on the same distribution percentages used in the State Administrative Expense funding formula, as described in Section 7 of the Child Nutrition Act and per Title 7, Part 235 of the Code of Federal Regulations.

Cynthia Long,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2021–10709 Filed 5–20–21; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet virtually via Microsoft Teams. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/klamath/workingtogether/advisorycommittees.*

DATES: Meetings will be held on:

- Thursday, June 10, 2021, at 11:00 a.m., Pacifc Daylight Time; and
- Thursday, June 24, 2021, at 11:00 a.m., Pacifc Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held virtually via Microsoft Teams.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Mt. Shasta Ranger Station. Please call ahead at 530–926–4511 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lejon Hamann, RAC Coordinator, by phone at 530–410–1935 or via email at *lejon.hamann@usda.gov.*

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00

a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Allow for public comments;
2. Present RAC orientation information to committee members;
3. Discuss, recommend, and approve a committee chair;
4. Discuss, recommend, and approve a mission statement;
5. Discuss, recommend, and approve meeting rules of operation;
6. Discuss third party facilitation; and
7. Discuss alternative committee members.

The meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by the Tuesday before each of the scheduled meetings to be scheduled on the agenda for that meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lejon Hamann, RAC Coordinator, 3644 Avtech Parkway, Redding, California 96002; or by email to *lejon.hamann@usda.gov.*

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: May 18, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–10759 Filed 5–20–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Trinity County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Trinity County Resource Advisory Committee (RAC) will meet virtually via Microsoft Teams. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees.*

DATES: The meetings will be held on

- Monday, June 7, 2021, at 4:30 p.m., Pacific Daylight Time; and
- Monday, June 21, 2021, at 4:30 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held virtually via Microsoft Teams.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Weaverville Ranger Station. Please call ahead at 530–623–2121 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lejon Hamann, RAC Coordinator, by phone at 530–410–1935 or via email at *lejon.hamann@usda.gov.*

Individuals who use telecommunication devices for the hearing-imparied (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Allow for any public comments;
2. Present RAC orientation information to committee members;
3. Discuss, recommend, and approve a committee chair;
4. Discuss, recommend, and approve a mission statement;
5. Discuss, recommend, and approve meeting rules of operation;
6. Discuss, recommend, and approve third party facilitation; and
7. Discuss Alternative committee members.

The meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by the Thursday before each of the scheduled meetings to be scheduled on the agenda for that meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Lejon Hamann, RAC Coordinator, 3644 Avtech Parkway, Redding, California 96002; or by email to *lejon.hamann@usda.gov.*

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case-by-case basis.

Dated: May 18, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–10758 Filed 5–20–21; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Mississippi Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Mississippi Advisory Committee (Committee) will hold a meeting via web conference on Wednesday, June 2, 2021 at 10:00 a.m. Central Time. The Committee's purpose is to review and discuss testimony received regarding the qualified immunity of law enforcement in the state.

DATES: The meeting will be held on Wednesday, June 2, 2021 from 10:00 a.m.–11:00 a.m. Central Time.

Online Registration (audio/visual): *https://bit.ly/3tBuk5W*

Telephone Access (audio only): 800 360 9505; Access Code: 199 731 4350

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or (202) 618–4158.

SUPPLEMENTARY INFORMATION: Members of the public may listen to this discussion through the above call in number, or register through the above

online registration link. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received by the regional office within 30 days following the meeting. Written comments may be emailed to Corrine Sanders at *csanders@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Mississippi Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email address.

Agenda

I. Welcome & Roll Call
II. SAC Discussion: Qualified Immunity of Law Enforcement in Mississippi
IV. Public Comment
VI. Adjournment

Dated: May 17, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–10735 Filed 5–20–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Certain Circular Welded Non-Alloy Steel Pipe From Mexico: Rescission of Antidumping Duty Administrative Review; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) is rescinding its administrative review of the antidumping duty order on certain circular welded non-alloy steel pipe from Mexico for the period of review (POR) November 1, 2019, through October 31, 2020.

DATES: Applicable May 21, 2021.

FOR FURTHER INFORMATION CONTACT: Mark Flessner, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6312.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2020, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order [1] on certain circular welded non-alloy steel pipe from Mexico for the POR.[2] On November 30, 2020, Commerce received a timely request from domestic interested party Nucor Tubular Products Inc. (Nucor Tubular), in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), to conduct an administrative review of the *Order* for 36 companies.[3] No other party requested an administrative review.

On January 6, 2021, Commerce published in the **Federal Register** a notice of initiation with respect to 36 companies.[4] On April 6, 2021, Nucor Tubular timely withdrew its request for an administrative review for all 36 companies for which it had requested a review.[5]

Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. In this instance, the party that requested an administrative review withdrew its request for review for all companies by the 90-day deadline, and no other party requested an administrative review of this order. Therefore, we are rescinding the administrative review of the *Order* covering the POR, in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 41 days after publication of this notice in the **Federal Register.**

Notification to Importers

This notice serves as the final reminder to importers of their responsibility, under 19 CFR 351.402(f)(2), to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement may result in the presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Orders

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and CFR 351.213(d)(4).

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[1] *See Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Welded Non-Alloy Steel Pipe from Korea,* 57 FR 49453 (November 2, 1992) (the *Order*).

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 85 FR 69586 (November 3, 2020).

[3] *See* Nucor Tubular's Letter, ''Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Request for Administrative Review,'' dated November 30, 2020.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 511 (January 6, 2021).

[5] *See* Nucor Tubular's Letter, ''Certain Circular Welded Non-Alloy Steel Pipes and Tubes from Mexico: Withdrawal of Request for Administrative Review,'' dated April 6, 2021.

Dated: May 18, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–10779 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Certain Activated Carbon From the People's Republic of China: Notice of Court Decision Not in Harmony With the Results of Antidumping Administrative Review; Notice of Amended Final Results

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

SUMMARY: On May 11, 2021, the Court of International Trade (CIT) issued its final judgment in *Calgon Carbon Corporation et al.* v. *United States,* Consol. Court No. 18–00232, sustaining the Department of Commerce's (Commerce's) second remand results pertaining to the tenth administrative review of the antidumping duty (AD) order on certain activated carbon from the People's Republic of China (China) covering the period of April 1, 2016, through March 31, 2017. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review, and that Commerce is amending the final results with respect to the dumping margin assigned to Carbon Activated Tianjin Co., Ltd. (Carbon Activated) and Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. (GHC).

DATES: Applicable May 21, 2021.

FOR FURTHER INFORMATION CONTACT: Jinny Ahn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0339.

SUPPLEMENTARY INFORMATION:

Background

On October 22, 2018, Commerce published its *Final Results* in the 2016–2017 AD administrative review of certain activated carbon from China.[1] Commerce calculated a weighted-average dumping margin of 0.00 U.S. dollars (USD)/kilogram (kg) for Datong Juqiang Activated Carbon Co., Ltd. (Datong Juqiang) and a weighted-average dumping margin of 0.45 USD/kg for Carbon Activated, and assigned GHC a separate rate of 0.45 USD/kg.[2]

After correcting ministerial errors contained in the *Final Results,* on November 19, 2018, Commerce published the *Amended Final Results.* Commerce calculated a weighted-average dumping margin of 0.00 USD/kg for Datong Juqiang and a weighted-average dumping margin of 0.23 USD/kg for Carbon Activated, and assigned GHC a separate rate of 0.23 USD/kg.[3]

Carbon Activated, Datong Juqiang, and GHC (collectively, the Respondents) appealed Commerce's *Final Results/Amended Final Results.* On May 13, 2020, the CIT remanded the *Final Results/Amended Final Results* to Commerce, and directed Commerce to reconsider Commerce's determination to include the imports from France and Japan in the Thai import data used to value the mandatory respondents' (*i.e.,* Carbon Activated and Datong Juqiang) carbonized material input, and also to reconsider Commerce's adjustments to the surrogate financial ratios.[4]

In its first remand redetermination, issued in August 2020, Commerce (1) reconsidered and further explained Commerce's determination to include the French and Japanese import data in the Thai import data used to value carbonized material in the *Final Results*; and (2) reconsidered and further explained Commerce's allocation of certain line items in valuing financial ratios using the 2016 financial statements from the Romanian company, Romcarbon SA (Romcarbon).[5] Specifically, Commerce excluded the imports from Japan from the Thai import data and continued to include the imports from France. In addition, Commerce made necessary changes in the allocation of certain line items in calculating the financial ratios using the 2016 financial statements from Romcarbon. Accordingly, Commerce made changes to the margin calculations for the mandatory respondents and revised the separate rate for GHC.[6] On December 21, 2020, the CIT remanded for a second time, and directed Commerce to again reconsider Commerce's inclusion of the imports from France in the Thai surrogate value for carbonized material.[7]

In its second remand redetermination, issued in March 2021, Commerce reconsidered its determination to include the imports from France in the Thai import data used to value carbonized material and, under protest, excluded the imports from France from the Thai surrogate value for carbonized material. Accordingly, Commerce made necessary changes to the margin calculations for the mandatory respondents and revised the separate rate for GHC.[8] The CIT sustained Commerce's final redetermination.[9]

Timken Notice

In its decision in *Timken,*[10] as clarified by *Diamond Sawblades,*[11] the Court of Appeals for the Federal Circuit held that, pursuant to section 516A(a) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's May 11, 2021 judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results/Amended Final Results.* Thus, this notice is published in fulfillment of the publication requirement of *Timken.*

Amended Final Results

Because there is now a final court decision, Commerce amends the *Final Results* and *Amended Final Results* with respect to Carbon Activated and GHC as follows:[12]

[1] *See Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 53214 (October 22, 2018) (*Final Results*).

[2] *Id.*

[3] *See Certain Activated Carbon from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 58229 (November 19, 2018) (*Amended Final Results*).

[4] *See Calgon Carbon Corporation et al.* v. *United States,* 443 F. Supp. 3d. 1334 (CIT 2020).

[5] *See Final Results of Redetermination Pursuant to Court Remand, Calgon Carbon Corporation et al.* v. *United States,* Consol. Court No. 18–00232, Slip Op. 20–65, dated August 4, 2020, available at *https://enforcement.trade.gov/remands/20-65.pdf.*

[6] *Id.* at 1–3, 23–25.

[7] *See Calgon Carbon Corporation et al.* v. *United States,* 487 F. Supp. 3d 1359 (CIT 2020).

[8] *See Final Results of Redetermination Pursuant to Court Remand, Calgon Carbon Corporation et al.* v. *United States,* Consol. Court No. 18–00232, Slip Op. 20–187, dated March 16, 2021, available at *https://enforcement.trade.gov/remands/20-187.pdf* (*Second Final Results of Redetermination*) at 1–2, 18–19. Commerce notes that although Datong Juqiang participated in the litigation, in the *Second Final Results of Redetermination,* subsequently sustained by the CIT, Datong Juqiang's rate remained unchanged from the *Amended Final Results* at 0.00 USD/kg.

[9] *See Calgon Carbon Corporation et al.* v. *United States,* Consol. Court No. 18–00232, Slip Op. 21–58 (CIT May 11, 2021).

[10] *See Timken Co.* v. *United States,* 893 F.2d 337, 341 (Fed. Cir. 1990) (*Timken*).

[11] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[12] Commerce notes that Datong Juqiang's rate remains unchanged from the *Amended Final Results* at 0.00 USD/kg.

Exporters	Weighted-average dumping margin (USD/kg) [13]
Carbon Activated Tianjin Co., Ltd	0.00
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd	0.00

Cash Deposit Requirements

Because Carbon Activated and GHC have superseding cash deposit rates, *i.e.,* there have been final results published in a subsequent administrative review, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries that: Were produced and exported by Carbon Activated, Datong Juqiang, or GHC, and were entered, or withdrawn from warehouse, for consumption during the period April 1, 2016, through March 31, 2017. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to liquidate without regard to antidumping duties unliquidated entries of subject merchandise produced and exported by Carbon Activated, Datong Juqiang, and GHC in accordance with 19 CFR 351.212(b).[14] For all other enjoined entries of subject merchandise from companies other than those specified above, we will instruct CBP to assess antidumping duties on all appropriate entries consistent with the *Final Results/Amended Final Results.*

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

[13] In the second administrative review, Commerce determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review,* 75 FR 70208, 70211 (November 17, 2010); *see also Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013–2014,* 80 FR 61172 (October 9, 2015), at 61174 n.21.

[14] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012); *see also* 19 CFR 351.106(c)(2).

Dated: May 17, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–10746 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; National Minority Business Awards

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on February 22, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: Minority Business Development Agency.

Title: National Minority Business Awards.

OMB Control Number: 0640–0025.

Form Number(s): None.

Type of Request: Revision of information collection.

Number of Respondents: 250.

Average Hours per Response: 1 hour.

Burden Hours: 250.

Needs and Uses: The information collected will be used to determine which minority business enterprises should receive honorary awards during the annual MED Week event. Use of the nomination form standardizes and limits the information collected and burden hours of the nomination process.

Affected Public: Businesses or other for-profit organizations, not-for-profit institutions, State, local or tribal government and Federal government.

Frequency: Annual.

Respondent's Obligation: Voluntary.

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

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0640–0025.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–10702 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Science Advisory Board

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Science Advisory Board (SAB). The members will discuss issues outlined in the section on Matters to be considered.

DATES: The meeting is scheduled for June 11, 2021 from 11:00 a.m. to 12:00 p.m. Eastern Daylight Time (EDT). This time and the agenda topics described below are subject to change. For the latest agenda please refer to the SAB website: *http://sab.noaa.gov/SABMeetings.aspx.*

ADDRESSES: This is a virtual meeting. The webinar registration links for the June 11, 2021 meeting may be found on the website at *http://sab.noaa.gov/SABMeetings.aspx.*

FOR FURTHER INFORMATION CONTACT: Dr. Cynthia Decker, Executive Director, SSMC3, Room 11230, 1315 East-West Hwy., Silver Spring, MD 20910; Phone Number: 301–734–1156; Email: *Cynthia.Decker@noaa.gov;* or visit the SAB website at *http://sab.noaa.gov/SABMeetings.aspx.*

SUPPLEMENTARY INFORMATION: The NOAA Science Advisory Board (SAB) was established by a Decision Memorandum dated September 25, 1997, and is the only Federal Advisory Committee with responsibility to advise the Under Secretary of Commerce for Oceans and Atmosphere on strategies

for research, education, and application of science to operations and information services. SAB activities and advice provide necessary input to ensure that National Oceanic and Atmospheric Administration (NOAA) science programs are of the highest quality and provide optimal support to resource management.

Status: The June 11, 2021 meeting will be open to public participation with a 5-minute public comment period at 11:55 a.m. EDT. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements. In general, each individual or group making a verbal presentation will be limited to a total time of three minutes. Written comments for the June 11, 2021 meeting should be received by the SAB Executive Director's Office by June 04, 2021 to provide sufficient time for SAB review. Written comments received by the SAB Executive Director after these dates will be distributed to the SAB, but may not be reviewed prior to the meeting date.

Special Accommodations: This meeting is physically accessible to people with disabilities. Requests for special accommodations may be directed to the Executive Director no later than 12 p.m. on June 04, 2021.

Matters To Be Considered: The meeting on June 11, 2021 will consider (1) Revisions to the Environmental Information Services Working Group's Statement on Ongoing National Weather Service Data Dissemination Challenges; and (2) SAB Priorities for Weather Research Study update. The full agenda will be published on the SAB website. Meeting materials, including work products, will also be available on the SAB website: *http://sab.noaa.gov/SABMeetings.aspx.*

Dated: May 13, 2021.

David Holst,

Chief Financial Officer/Administrative Officer, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–10745 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NOAA Marine Debris Program Performance Progress Report

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or BEFORE July 20, 2021.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *Adrienne.thomas@noaa.gov.* Please reference OMB Control Number 0648–0718 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Tom Barry, Management and Program Analyst, NOAA/NOS/ORR, 202–870–2863 or *tom.barry@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for extension of a currently approved information collection.

The NOAA Marine Debris Program (MDP) operates within the Office of Response and Restoration as part of NOAA's National Ocean Service. The MDP supports national and international efforts to research, prevent, and reduce the impacts of marine debris. The MDP is the lead program within NOAA that coordinates and supports activities, both within the bureau and with other federal agencies, to address marine debris and its impacts. In addition to inter-agency coordination, the MDP uses partnerships with state and local agencies, tribes, non-governmental organizations, academia, and industry to investigate and solve the problems that stem from marine debris through research, prevention, and reduction activities, in order to protect and conserve our nation's marine environment and ensure navigation safety.

The Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1951 *et seq.*) as amended by the Marine Debris Act Amendments of 2012 (Pub. L. 112–213, Title VI, Sec. 603, 126 Stat. 1576, December 20, 2012), and the Save our Seas Act and Save our Seas 2.0 Act in 2018 and 2020, respectively. The Save our Seas 2.0 Act was signed into law on December 18, 2020 (Pub. L. 116–224). These authorities outline a variety of different program components for the MDP to undertake in addressing the marine debris issue: Marine debris mapping, identification, impact assessment, research, removal, and prevention. To address these components, the Marine Debris Act and the subsequent amendments listed above authorize the MDP to establish several competitive grant programs on marine debris research, prevention, and removal to support non-federal entities throughout the coastal United States and territories with financial and technical assistance. Other supplemental appropriations, such as the Bipartisan Budget Act of 2018 and the United States-Mexico-Canada Agreement (USMCA) Supplemental Appropriations Act of 2019 (Pub. L. 116–113, Title IX), have provided authority to the MDP for marine debris work in dealing with hurricane recovery and international transboundary marine debris issues as well.

The terms and conditions of the financial assistance awards made through these grant programs require regular progress reporting and communication of project accomplishments to MDP. Progress reports contain information related to, among other things, the overall short and long-term goals of the project, project methods and monitoring techniques, actual accomplishments (such as tons of debris removed from an ecosystem, numbers of volunteers participating in a cleanup project, the number of educational interactions with the public, etc.), status of approved activities, challenges or potential roadblocks to future progress, lessons learned, and budget expenditures. This information collection enables MDP to monitor and evaluate the activities

supported by federal funds to ensure accountability to the public and to ensure that funds are used in a manner consistent with the purpose for which they were appropriated. It also ensures that reported information is standardized in such a way that allows it to be meaningfully synthesized across a diverse set of projects and project types. MDP uses the information collected in a variety of ways to communicate with federal and non-federal partners and stakeholders on individual project and general program accomplishments.

II. Method of Collection

Respondents to this collection may choose to submit electronically or in paper format.

III. Data

OMB Control Number: 0648–0718.

Form Number(s): None.

Type of Review: Regular submission (extension of an approved information collection).

Affected Public: Business or other for-profit, not-for-profit institutions, state, local or tribal government.

Estimated Number of Respondents: 70.

Estimated Time per Response: 10 Hours (semi-annually).

Estimated Total Annual Burden Hours: 1,400.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Mandatory.

Legal Authority: Marine Debris Research, Prevention, and Reduction Act (33 U.S.C. 1951 *et seq.*) as amended by the Marine Debris Act Amendments of 2012 (Pub. L. 112–213, Title VI, Sec. 603, 126 Stat. 1576, December 20, 2012); Save our Seas Act and Save our Seas 2.0 Act (Pub. L. 116–224).

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–10795 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB102]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public online meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Scientific and Statistical Committee's (SSC's) Salmon Subcommittee will meet to review the SSC's role in reviewing salmon forecast methodologies and other analyses informing Pacific Council decisions as specified in the Pacific Coast Salmon Fishery Management Plan (FMP) and in Council Operating Procedure (COP) 15. The SSC Salmon Subcommittee may also discuss how best scientific information available (BSIA) determinations for salmon decision-making might be structured.

DATES: The online meeting will be held Friday, June 4, 2021, from 9 a.m. to 1 p.m., Pacific Daylight Time.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: John DeVore, Staff Officer; Pacific Council, telephone: (503) 820–2413.

SUPPLEMENTARY INFORMATION: The purpose of the SSC Salmon Subcommittee meeting will be to review the Pacific Coast Salmon FMP and COP 15 to evaluate the SSC's role in future methodology reviews of salmon run forecast methodologies and other analyses used by the Pacific Council in management decision-making. The SSC will seek clarification from the Pacific Council at its June 2021 meeting regarding their role in reviewing salmon run forecasts. The SSC Salmon Subcommittee may also discuss BSIA determinations for salmon decision-making that could inform SSC recommendations on the regional BSIA framework which are scheduled to be presented at the September 2021 Pacific Council meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt, (*kris.kleinschmidt@noaa.gov;* (503) 820–2412), at least 10 days prior to the meeting date.

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

Dated: May 17, 2021,

Tracey L. Thompson,

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

[FR Doc. 2021–10720 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB088]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) will hold public meetings of the Council and its Executive Committee.

DATES: The meetings will be held Monday, June 7, 2021 through Thursday, June 10, 2021. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: This meeting will be conducted entirely by webinar. Webinar registration details will be available on the Council's website at *https://www.mafmc.org/briefing/june-2021.*

Council address: Mid-Atlantic Fishery Management Council, 800 N State St., Suite 201, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D. Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 526–5255. The Council's website, *www.mafmc.org* also has details on the meeting location, proposed agenda, webinar listen-in access, and briefing materials.

SUPPLEMENTARY INFORMATION: The following items are on the agenda, though agenda items may be addressed out of order (changes will be noted on the Council's website when possible.)

Monday, June 7, 2021

Executive Committee (Closed Session)

Develop Advisory Panel appointment recommendations

Tuesday, June 8, 2021

2020 MRIP Estimation Methodology

Presentation and discussion

Bluefish Allocation and Rebuilding Amendment—Final Action

Review public comments and recommendations from the Advisory Panel and Fishery Management Action Team (FMAT)
Consider final action

Recreational Reform Initiative

Receive update and discuss next steps

Wednesday, June 9, 2021

Atlantic Surfclam and Ocean Quahog 2022 Specifications Review

Review recommendations from the Advisory Panel, Scientific and Statistical Committee (SSC), and staff
Recommend any changes to (previously set) 2022 specifications if necessary
Receive brief update on other surfclam and ocean quahog activities (clam survey, genetics study, species separation issues, etc.)

Longfin Squid and Butterfish 2022 Specifications Review

Review recommendations from the Advisory Panel, SSC, and staff
Review (previously set) 2022 longfin squid and butterfish specifications and recommend any changes if necessary
Consider changes to the butterfish mesh regulations

Illex Squid 2021–2022 Specifications

Review recommendations from the Advisory Panel, SSC, and staff
Approve 2022 Illex squid specifications
Consider revisions to 2021 Illex squid specifications
Consider changes to the Illex incidental trip limit during fishery closures
Consider an additional Illex control date

Unmanaged Commercial Landings Report

Review annual report on landings of unmanaged species

Habitat Update

Update from NOAA Fisheries Greater Atlantic Regional Fisheries Office (GARFO)
Habitat Conservation Division on activities of interest (aquaculture, other projects) in the region

Offshore Wind Updates

Presentations from Bureau of Ocean Energy Management (BOEM), GARFO, and Offshore Wind Developers

Thursday, June 10, 2021

ASMFC Policy Board Remand of Black Sea Bass Commercial State Allocations

Council discussion of ASMFC Policy Board decision to remand the commercial black sea bass state allocations to the Summer Flounder, Scup, and Black Sea Bass Management Board and implications for the associated joint amendment/addendum.

Business Session

Committee Reports (SSC, Research Steering Committee); Executive Director's Report (Update on Atlantic Large Whale Take Reduction Team discussions relative to the Mid-Atlantic region); Organization Reports; and Liaison Reports

Other Business and General Public Comment

Although non-emergency issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), those issues may not be the subject of formal action during these meetings. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c)

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Collins, (302) 526–5253, at least 5 days prior to the meeting date.

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

Dated: May 17, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–10718 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB108]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council is convening its Scientific and Statistical Committee (SSC) via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This webinar will be held on Tuesday, June 8, 2021 beginning at 9 a.m. Webinar registration information: *https://attendee.gotowebinar.com/register/7700652201409008139.*

Call in information: +1 (562) 247–8422, Access Code 272–665–980.

ADDRESSES: *Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Scientific and Statistical Committee will meet to receive the report of the SSC Social Science Subpanel review of the social and economic impact analyses in Multispecies (Groundfish) Framework Adjustment 59 and Scallop Framework Adjustment 32 if available. They will discuss possible next steps for modifying Groundfish ABC control rules in response to the findings in the report, Evaluation of Alternative Harvest Control Rules for New England Groundfish. They also plan to comment on the annual update to Council research priorities. Other business will be discussed as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: May 17, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–10719 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB098]

Fisheries of the Gulf of Mexico; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 74 Stock ID Webinar II for Gulf of Mexico red snapper.

SUMMARY: The SEDAR 74 assessment of Gulf of Mexico red snapper will consist of a Data workshop, a series of assessment webinars, and a Review workshop. **SUPPLEMENTARY INFORMATION.**

DATES: The SEDAR 74 Stock ID Webinar II will be held from 2 p.m. to 5 p.m. Eastern June 9, 2021.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT** below) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary, documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Stock ID webinars are as follows:

1. Participants will use review genetic studies, growth patterns, existing stock definitions, prior SEDAR stock ID recommendations, and any other relevant information on scamp stock structure.

2. Participants will make recommendations on biological stock structure and define the unit stock or stocks to be addressed through this assessment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: May 18, 2021.

Diane M. DeJames-Daly,

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

[FR Doc. 2021–10755 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB104]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice; public hearings and webinar.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold three in-person public hearings and two webinar public hearings to solicit public comments on Reef Fish Amendment 53—Red Grouper Allocations and Annual Catch Levels and Targets.

DATES: The public hearings will take place June 7–16, 2021. The in-person public hearings and webinars will begin at 6 p.m. and will conclude no later than 9 p.m., EDT. For specific dates and times, see **SUPPLEMENTARY INFORMATION**. Written public comments must be received on or before 5 p.m. EDT on Tuesday, June 15, 2021.

ADDRESSES: Please visit the Gulf Council website at *www.gulfcouncil.org* for meeting materials and webinar registration information.

Meeting addresses: The public hearings will be held in Madeira Beach, Ft. Myers and Panama City, FL. For specific locations, see **SUPPLEMENTARY INFORMATION**.

Public comments: Comments may be submitted online through the Council's public portal by visiting *www.gulfcouncil.org* and clicking on ''CONTACT US''.

FOR FURTHER INFORMATION CONTACT: Dr. Matthew Freeman, Economist; *matt.freeman@gulfcouncil.org,* Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION: The agenda for the following three in-person hearings and two webinars are as follows: Council staff will brief the public on the purpose and need of the amendment. The Council is currently considering reallocating red grouper between commercial and recreational sectors in the Gulf, as well as modifying the overfishing limit (OFL), acceptable biological catch (ABC), and annual catch limits (ACLs). The Council is also currently considering modifying the buffer between the ACL and annual catch target (ACT) for each sector. Council staff will also provide an overview of the actions and alternatives considered in the amendment including the Council's preferred alternatives.

Staff and a Council member will be available to answer any questions, and the public will have the opportunity to provide testimony on the amendment and other related testimony.

The schedule is as follows:

In-Person Locations and Webinars

Monday, June 7, 2021; The City Centre at City Hall, 300 Municipal Dr., Madeira Beach, FL 33708; (727) 391–9951.

Tuesday, June 8, 2021; Crowne Plaza Ft. Myers at Bell Tower Shops, 13051 Bell Tower Drive, Ft. Myers, FL 33907; telephone: (239) 482–2900.

Thursday, June 10, 2021 via webinar. Visit *www.gulfcouncil.org* website and click on the ''meetings'' tab for registration information. After registering, you will receive a confirmation email containing information about joining the webinar.

Monday, June 14, 2021; Hilton Garden Inn, 1101 U.S. Hwy. 231, Panama City, FL 32405; telephone: (850) 392–1093.

Wednesday, June 16, 2021; via webinar. Visit *www.gulfcouncil.org* website and click on the ''meetings'' tab for registration information. After registering, you will receive a confirmation email containing information about joining the webinar.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira (see **ADDRESSES**), at least 5 working days prior to the meeting date.

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

Dated: May 17, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–10717 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* June 20, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 1/15/201 and 2/5/2021, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) and service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product(s) and service(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Base Supply Center

Mandatory for: Sierra Army Depot, Herlong CA
Designated Source of Supply: South Texas Lighthouse for the Blind, Corpus Christi, TX
Contracting Activity: DEPT OF THE ARMY, W6QK SIAD CONTR OFF

Service Type: Laundry Service
Mandatory for: U.S. Army, Alabama Army National Guard, Montgomery, AL
Designated Source of Supply: Wiregrass Rehabilitation Center, Inc., Dothan, AL
Contracting Activity: DEPT OF THE ARMY, W7MT USPFO ACTIVITY AL ARNG

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the Department of the Army Laundry Service contract. The Federal customer contacted, and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the Department of the Army will refer its business elsewhere, this addition must be effective on June 15, 2021, ensuring timely execution for a June 16, 2021, start date while still allowing 25 days for comment. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on January 15, 2021, and did not receive any comments from any interested persons including from the incumbent contractor who in this case, is the nonprofit agency designated by the Commission for this project. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Service Type: Grounds Maintenance
Mandatory for: Federal Aviation Administration, Covington Air Traffic Control Tower (CVG ATCT), Erlanger, KY and Covington VHF Omni-Range Tactical Air Navigation (VORTAC), Burlington, KY
Designated Source of Supply: Greater Cincinnati Behavioral Health Services, Cincinnati, OH
Contracting Activity: FEDERAL AVIATION ADMINISTRATION, 697DCK REGIONAL ACQUISITIONS SVCS

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the Federal Aviation Administration's contract. The Federal customer contacted, and has worked diligently with, the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the Federal Aviation Administration will refer its business elsewhere, this addition must be effective on May 31, 2021, ensuring timely execution for a June 1, 2021, start date while still allowing 10 days for comment. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on February 5, 2021, and did not receive any comments from any interested persons, including from the incumbent contractor. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne Program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Deletions

On 4/16/2021, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 5855–01–334–6594—Harness, Night Vision
Designated Source of Supply: Cambria County Association for the Blind and Handicapped, Johnstown, PA
Contracting Activity: DLA AVIATION, RICHMOND, VA

NSN(s)—Product Name(s): 5330–01–134–7893—Insulation
Designated Source of Supply: Huntsville Rehabilitation Foundation, Huntsville, AL
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s): 9905–00–NSH–0236—Sorter, T Card
Designated Source of Supply: Challenge Enterprises of North Florida, Inc., Green Cove Springs, FL
Contracting Activity: FA–NATIONAL INTERAGENCY FIRE CENTER, BOISE, ID

Michael R. Jurkowski,
Deputy Director, Business Operations.

[FR Doc. 2021–10802 Filed 5–20–21; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add product(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) previously furnished by such agencies.

DATES: Comments must be received on or before: June 20, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia, 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s):
MR 863—Lint Roller
MR 864—Lint Roller Refill

Designated Source of Supply: Alphapointe, Kansas City, MO

NSN(s)—Product Name(s): MR 11480—Dust Remover, Compressed Gas, 10 oz

Designated Source of Supply: The Lighthouse for the Blind, St. Louis, MO

Mandatory For: The requirements of military commissaries and exchanges in accordance with the 41 CFR 51–6.4

Contracting Activity: Military Resale-Defense Commissary Agency

Distribution: C-List

Deletions

The following product(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
8415–01–515–4289—Cover, Advanced Combat Helmet System (ACH), w/o Communications Flap, Arctic White, Sm/Med
8415–01–515–4290—Cover, Advanced Combat Helmet System (ACH), w/o Communications Flap, Arctic White, Lg/XLg

Designated Source of Supply: Mount Rogers Community Services Board, Wytheville, VA

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s): 7520–01–484–5254—Pen, Ball Point, Retractable, Ergonomic, MD Executive Grip, Black Barrel, Black Ink, Medium Point

Designated Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):
8455–01–645–2728—Neck Lanyard, Cord Style, J-Hook, Tan, 36″ x .25″
8455–01–645–2731—Neck Lanyard, Strap Style, J-Hook, Tan, 36″ x .75″

Mandatory Source of Supply: West Texas Lighthouse for the Blind, San Angelo, TX

Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

NSN(s)—Product Name(s): 2640–00–052–6724—Repair Kit, Puncture

Contracting Activity: DLA LAND AND MARITIME, COLUMBUS, OH

Michael R. Jurkowski,

Deputy Director, Business Operations.

[FR Doc. 2021–10803 Filed 5–20–21; 8:45 am]

BILLING CODE 6353–01–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2021–0011]

Agency Information Collection Activities: Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Consumer Financial Protection (Bureau) is requesting to revise an existing information collection, titled ''Report of Terms of Credit Card Plans (Form FR 2572) and Consumer and College Credit Card Agreements.''

DATES: Written comments are encouraged and must be received on or before July 20, 2021 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.

• *Email: PRA_Comments@cfpb.gov.* Include Docket No. CFPB–2021–0011 in the subject line of the message.

• *Mail/Hand Delivery/Courier:* Comment intake, Bureau of Consumer Financial Protection (Attention: PRA Office), 1700 G Street NW, Washington, DC 20552. Please note that due to circumstances associated with the COVID–19 pandemic, the Bureau discourages the submission of comments by mail, hand delivery, or courier.

Please note that comments submitted after the comment period will not be accepted. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT:

Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Suzan Muslu, Data Governance Manager, at (202) 435–9276, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Report of Terms of Credit Card Plans (Form FR 2572) and Consumer and College Credit Card Agreements.

OMB Control Number: 3170–0001.

Type of Review: Revision of a previously approved information collection.

Affected Public: Business and other for-profit institutions.

Estimated Number of Respondents: 615.

Estimated Total Annual Burden Hours: 501.

Abstract: This collection incorporates two information collections of credit card data by the Bureau that used to be collected under separate OMB Control Numbers. OMB Control No. 3170–0052 is being incorporated into OMB Control Number 3170–0001. Each collects different forms of credit card data from credit card issuers, as required by the Truth in Lending Act (TILA), 15 U.S.C. 1601, *et seq.* and implementing regulations:

—Form FR 2572 collects data on credit card pricing and availability from a sample of at least 150 financial institutions that offer credit cards. The data enables the Bureau to present information to the public on terms of credit card plans;

—Sections 204 and 305 of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), amending TILA, and12 CFR 1026.57(d) and 226.58 require card issuers to submit to the Bureau:

• Agreements between the issuer and a consumer under a credit card account for an open-end consumer credit plan; and

• any college credit card agreements to which the issuer is a party and certain additional information regarding those agreements.

The data collections enable the Bureau to provide Congress and the public with a centralized and searchable repository for consumer and college credit card agreements and information regarding the arrangements between financial institutions and institutions of higher education.

Request for Comments: Comments are invited on: (a) Whether the mandatory collection of information, pursuant to statute, is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be

collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record.

Dated: May 18, 2021.

Suzan Muslu,

Data Governance Manager, Bureau of Consumer Financial Protection.

[FR Doc. 2021–10794 Filed 5–20–21; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Department of the Army

Draft Legislative Environmental Impact Statement for Training and Public Land Withdrawal Extension, Fort Irwin, California

AGENCY: Department of the Army, Department of Defense.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the availability of the Draft Environmental Impact Statement (EIS) for Training and Public Land Withdrawal Extension, Fort Irwin, California. In accordance with the National Environmental Policy Act (NEPA), the Draft EIS analyzes the potential environmental effects resulting from modernization of training activities and improvement of training facilities at the National Training Center (NTC) at Fort Irwin, California. The Army is also issuing this notice to inform the public that the EIS will serve as a Legislative Environmental Impact Statement (LEIS) to support the extension of the public land withdrawal for portions of Fort Irwin.

DATES: Comments must be received July 6, 2021.

ADDRESSES: Written comments should be forwarded to the NEPA Planner, Fort Irwin Directorate of Public Works, Environmental Division, Building 602, Fifth Street, Fort Irwin, CA 92310–5085, email: *usarmy.jbsa.aec.nepa@mail.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Jason Miller, Fort Irwin Public Affairs Office at 760–380–4511, Monday through Friday from 7:30 a.m. to 4:00 p.m. or via email at *usarmy.irwin.ntc .mbx.ntc-eis-info-request@mail.mil.*

SUPPLEMENTARY INFORMATION: Fort Irwin consists of approximately 753,537 acres in the Mojave Desert in San Bernardino County in southern California. The NTC at Fort Irwin provides combined arms training for maneuver Brigade Combat Teams (BCTs), including the Army's Stryker BCTs and Armored BCTs. Training also is provided for joint military branches (Marine Corps, Navy, and Air Force), Army Reserve, National Guard units, and regular and transitional law enforcement units, as well as home station units. Because of its size, design, and terrain, Fort Irwin is one of the few places in the world where brigade-size units (5,000+ soldiers) can test their combat readiness.

Fort Irwin's mission is to train Rotational Training Units (RTUs) and joint, interagency, and multinational partners to fight and win in a complex world, while taking care of soldiers, civilians, and family members. To achieve this mission, NTC designs and executes training exercises that prepare brigade-level units for operational deployments. Up to 12 BCT rotations are executed per year.

The Draft EIS analyzes the potential effects from the modernization of training, the improvement of training infrastructure, and the extension of the existing land withdrawal. Training changes are required to support new training doctrine that focuses on large Army formations operating against near-peer adversaries. To reflect weapon systems capabilities and evolving mission requirements, improvements need to be made to training infrastructure.

Approximately 110,000 acres of Fort Irwin training land areas are public land that has been withdrawn from all types of appropriation and reserved for military purposes under Public Law 107–107 (2001). This public land withdrawal terminates on December 28, 2026. The Army has identified a continuing military need for the land beyond the termination date and intends to request that the U.S. Congress extend the withdrawal for at least 25 years, or in the alternative, for an indefinite period until there is no longer a military need for the land. Upon a separate application by the Army, the Bureau of Land Management will file in the **Federal Register** a separate notice of withdrawal extension application. The Final EIS will be submitted to the U.S. Congress as an LEIS to support the legislative request for extension of this withdrawal and reservation.

The Draft EIS analyzes a range of Proposed Mission Change Alternatives, a No Mission Change Alternative, a Withdrawal Extension Alternative, and a No Withdrawal Extension Alternative. The Mission Change Alternatives consist of different magnitudes of changes in training and training infrastructure; for Fort Irwin's Western Training Area, the EIS considers a range of medium-to-heavy intensity training alternatives. The No Mission Change Alternative would continue military training at the current level and would result in no modernization of training or improvement of training infrastructure on Fort Irwin. The Army is the decision maker regarding the Mission Change Alternatives.

The Withdrawal Extension Alternative would extend the current withdrawal for 25 years or indefinitely until there is no longer a military need for the land. The No Withdrawal Extension Alternative would result in portions of the installation returning to public domain. The U.S. Congress is the decision maker regarding the Withdrawal Alternatives.

All military activities under consideration would be conducted within the existing boundaries of the installation. The Draft EIS evaluates the potential direct, indirect, and cumulative environmental and socioeconomic effects of these alternatives. Adverse effects would be minimized to the extent possible through the implementation of specified avoidance, minimization, and mitigation measures.

The Army Preferred Alternative has not been determined at this time and will be specified the Final EIS.

The resource areas analyzed in the DEIS include air quality, transportation, noise, water resources, geological resources, biological resources, cultural resources, noise, utilities, land use, recreation, health and safety, and hazardous materials and waste. The effects on these resources may occur from changing the scope or magnitude of military training activities within the current Fort Irwin boundaries. The analysis also considers the potential for cumulative environmental effects.

Both the Mission Change Alternatives and the No Mission Change Alternative would result in unavoidable environmental effects. Under the No Mission Change Alternative, there would be less than significant effects on all evaluated resources. The Mission Change Alternatives would result in minor-to-moderate adverse effects that would be in addition to the effects of the No Mission Change Alternative; however, none of the effects would be significant.

The environmental effects from the Withdrawal Extension Alternative would be comparable to those discussed for the Mission Change Alternatives. While the effects of the No Withdrawal Extension Alternative are uncertain,

because of the unknown future uses of these areas if Army training is not conducted, it is expected that the No Withdrawal Extension Alternative would result in negligible effects on resources compared to the Withdrawal Extension Alternative.

Federal, state, and local agencies, Native Americans, Native American organizations, and the public are invited to be involved in the public comment process for the Draft EIS by submitting written comments. Written comments must be received or postmarked by July 6, 2021. In response to the COVID–19 pandemic in the United States and the Centers for Disease Control and Prevention's recommendations for social distancing and avoiding large public gatherings, the Army will not hold in-person public comment meetings for this action. All government agencies, special interest groups, and individuals are invited to participate in the Army's decision-making process for this Proposed Action. [A 45-day public review period for the Draft EIS will begin after publication in the **Federal Register**]. Information on the Draft EIS will be provided online through a virtual town hall, and the public meeting will be hosted by telephone. Interested parties are invited to attend two public telephone meetings (date to be determined, and included in this notice, based on scheduled **Federal Register** publication date). The first telephone meeting will be held from 10:00 a.m. to 2:00 p.m. Pacific Daylight Time and the second telephone meeting will be held from 4:00 p.m. to 8:00 p.m. Pacific Daylight Time. The dial-in number for both telephone meetings is 888–251–2949 or 215–861–0694, with a passcode of 6920265# for the 10:00 a.m. meeting and 6091656# for the 4:00 p.m. meeting. Persons unable to access the virtual town hall can submit a request for meeting materials to: *usarmy.jbsa.aec.nepa@mail.mil.* Specific details, including date, of the telephone meetings will be announced in local media and on the Fort Irwin EIS website: *https://aec.army.mil/index.php/irwin-nepa-meeting.*

The Draft EIS will be posted on the website and, for those who do not have ready access to a computer or the internet, will be made available upon request by mail. Inquiries, requests for Draft EIS-related materials, and comments regarding the Draft EIS may be submitted by mail to the NEPA Planner, Fort Irwin Directorate of Public Works, Environmental Division, Building 602, Fifth Street, Fort Irwin, CA 92310–5085. Mail must be postmarked no later than June 7, 2021, to allow the meeting materials to be sent by the U.S. Postal Service. An electronic copy of the Draft EIS will be made available for view online or download from the Fort Irwin EIS website: *https://aec.army.mil/index.php/irwin-nepa-meeting.* Notification of the public telephone meetings will be announced in the local news media and on the Fort Irwin EIS website.

To ensure the Army has sufficient time to consider public input in the preparation of the Final EIS, written comments must be submitted on the website or mailed to the address listed previously no later than July 6, 2021.

The Department of the Army will consider all comments received on the Draft EIS when preparing the Final EIS and will announce the availability of the Final EIS. The Bureau of Land Management will organize public participation following the publication of its notice of application for extension of the public land withdrawal.

James W. Satterwhite, Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2021–10504 Filed 5–20–21; 8:45 am]

BILLING CODE 5061–AP–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare an Environmental Impact Statement for the Lake Okeechobee System Operating Manual (LOSOM), Glades, Martin, Palm Beach, Hendry, Lee, St. Lucie and Okeechobee Counties, Florida. Effects May Extend to Broward, Miami-Dade, Monroe, and Collier Counties, Florida

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations, the U.S. Army Corps of Engineers, Jacksonville District (Corps) is beginning preparation of an Environmental Impact Statement (EIS) for the Lake Okeechobee System Operating Manual (LOSOM).

DATES: The draft EIS is scheduled to be released for a minimum 45-day public review in conjunction with the draft operation plan in early 2022. The Final EIS is anticipated in August 2022.

ADDRESSES: U.S. Army Corps of Engineers, Planning and Policy Division, Environmental Branch, 701 San Marco Blvd., Jacksonville, FL 32207.

FOR FURTHER INFORMATION CONTACT: Ms. Jessica Menichino at (239) 221–2024; email at *Jessica.M.Menichino@usace.army.mil* or through the mail at the above address. Additional information is also available at *https://www.saj.usace.army.mil/LOSOM/.*

SUPPLEMENTARY INFORMATION:

a. *Purpose and need:* The purpose of the LOSOM is to develop a new regulation schedule for Lake Okeechobee that accounts for the completion of the Herbert Hoover Dike (HHD) rehabilitation and considers completed or near complete Comprehensive Everglades Restoration Plan (CERP) projects, while balancing the congressionally authorized purposes of the Central and Southern Florida (C&SF) Project to include flood control, water supply for agricultural, municipal, and industrial uses, regional groundwater control and prevention of saltwater intrusion, enhancement of fish and wildlife, and recreation. The LOSOM aims to develop a new regulation schedule that will improve Lake Okeechobee ecological integrity and the quantity, quality, timing, and distribution of water moving in the Northern Estuaries, Water Conservation Areas (WCAs), and Everglades National Park (ENP), while balancing the congressionally-authorized project purposes. The study will not propose water quality improvement features and will not propose new infrastructure beyond evaluation of already authorized projects.

b. *Preliminary alternatives & proposed action:* Since the development of structural works around Lake Okeechobee, the Lake Okeechobee water levels and the distribution, timing, and, magnitude of releases out of the lake have been determined by the active regulation schedule. The last Lake Okeechobee regulation schedule review, called the 2008 Lake Okeechobee Regulation Schedule (LORS 2008), was completed in 2008 to improve Lake and Northern Estuary ecology and to reduce flood risk during rehabilitation of HHD. The new regulation schedule, LOSOM, is being developed to incorporate HHD rehabilitation and additional relevant South Florida Ecosystem Restoration projects since the LORS 2008 schedule update. Additionally, focused objectives, based on updated conditions, new science, and lessons learned since LORS 2008 was approved, have been developed to better meet the congressionally authorized purposes, which will incorporate critical flexibility into Lake Okeechobee operations. The balanced array of alternatives will include different

methodologies to balance the congressionally-authorized project purposes and the stated goals and objectives of LOSOM to consider incorporating the following concepts: (1) Increasing flow south with an emphasis on dry season flows, (2) Reducing flows to the St. Lucie Estuary through S–308, (3) Reducing high and low flow events to the Caloosahatchee River and Estuary, (4) Addressing algal bloom risk, (5) Improving water supply, and (6) Managing lake stages for enhancing ecology. After the evaluation of the balanced array of alternatives, a Tentatively Selected Plan will be chosen and optimized during a third round of modeling.

c. *Brief summary of expected impacts:* The scope of LOSOM will be limited to operational criteria for structures that manage releases from Lake Okeechobee, including releases to the east towards the St. Lucie Estuary via S–308 and S–80, releases towards the west towards the Caloosahatchee Estuary via S–77, S–78, and S–79, and south via S–351, S–352, S–354, and S–271. At these structures, LOSOM will define the upper and lower limits of flow magnitudes, the duration and timing of flows, and lake levels or ranges of levels at different times of year (*e.g.,* wet and dry seasons). In addition, it will include the types of information used to help inform water management release decisions that include, but are not limited to, the following: Short and long term meteorological patterns, environmental conditions in Lake Okeechobee, Northern Estuaries, and WCAs, fish and wildlife species, and water supply needs and well fields. The areas of direct impact include Lake Okeechobee, Caloosahatchee River and Estuary, St. Lucie Estuary, the Everglades Agricultural Area (EAA), and WCAs. Areas of indirect impact include the Lower East Coast Service Area (LECSA), ENP, and other areas south of Lake Okeechobee that may be impacted by changing freshwater releases from Lake Okeechobee. Expected impacts may include the following: Changing salinity levels in the Northern Estuaries (either positively or negatively depending on flows), changing water levels in the EAA and WCAs, potential increases or decreases in algal bloom risk in Lake Okeechobee and the Northern Estuaries, increases or decreases in water supply and available water for navigation and recreation, and potential impacts to seagrasses, oysters, and endangered and threatened species. Potential indirect impacts include increasing or decreasing freshwater flow amounts being sent to ENP, LECSA, and other areas south of Lake Okeechobee. Other potential impacts may be determined as the in-depth analysis of alternatives is conducted under NEPA.

d. *Anticipated permits/authorizations:* All alternative plans will be reviewed under provisions of appropriate laws and regulations, including the Endangered Species Act, Magnuson-Stevens Fisheries Conservation and Management Act, Fish and Wildlife Coordination Act, Coastal Zone Management Act, and National Historic Preservation Act. The final array of alternative plans will consider operations that balance multiple project objectives and evaluate their effects on the human environment in the NEPA document. As an operational plan, it is not expected that permits under the Clean Water Act or Clean Air Act will be required.

e. *Scoping process and meetings:* The planning process for LOSOM requires extensive coordination with the public and federal, tribal, state, and local resource management and regulatory agencies. An interagency project team was formed and is meeting regularly throughout the study, to provide opportunities for federal, tribal, state, and local agencies to comment on planning assumptions, evaluation tools and methods, and alternative plans. Initial public and agency comments received in response to a NEPA scoping letter dated January 29, 2019, were supportive of the project. Comments received from the NEPA scoping letter focused on the planning and NEPA process, Lake Okeechobee water levels and release volumes, operational considerations to be included in LOSOM, and links to other CERP projects and planning constraints. Concerns centered on potential impacts to water supply, flood protection, public health and safety, and water quality, including harmful algal blooms. Potential impacts to ecosystems, fish, and wildlife resources, and known and unknown cultural resources were also of concern. Scoping comments were accepted through April 21, 2019.

f. *Request for alternatives, information, and analyses:* The LOSOM team is currently developing a balanced array of alternatives. These alternatives are expected to be modeled in early to mid-May 2021. The alternatives were presented to the Project Delivery Team (PDT) during the May 7, 2021 PDT meeting, where members of the public were invited to attend. More information on meeting times, dates, and topics can be found at *https://www.saj.usace.army.mil/LOSOM/.*

Jason E. Kelly,

Colonel(P), U.S. Army, Commanding.

[FR Doc. 2021–10761 Filed 5–20–21; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0040]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Flexibility for Equitable Per-Pupil Funding

AGENCY: Office of Elementary and Secondary Education (OESE), 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 21, 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 Melissa Siry, 202–260–0926.

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: Application for Flexibility for Equitable Per-pupil Funding.

OMB Control Number: 1810–0734.

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

Respondents/Affected Public: State and Local Governments.

Total Estimated Number of Annual Responses: 10.

Total Estimated Number of Annual Burden Hours: 560.

Abstract: This is a request to collect critical information for the Application for Flexibility for Equitable Per-pupil Funding, the instrument through which local educational agencies (LEAs) apply for flexibility to consolidate eligible Federal funds and State and local education funding based on weighted per-pupil allocations for low-income and otherwise disadvantaged students. This program allows LEAs to consolidate funds under the following Federal education programs: Elementary and Secondary Education Act of 1965 (ESEA); Title I, Part A Improving Basic Programs Operated by Local Educational Agencies; Title I, Part C Education of Migratory Children; Title I, Part D, Subpart 2 Local Prevention and Intervention Programs for Children and Youth Who Are Neglected, Delinquent, or At-Risk; Title II Preparing, Training, and Recruiting High-quality Teachers, Principals, or Other School Leaders; Title III Language Instruction for English Learners and Immigrant Students; Title IV, Part A Student Support and Academic Enrichment Grants; Title VI, Part B Rural Education Initiative. On December 10, 2015, the programs above were reauthorized by the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). The Flexibility for Equitable Per-pupil Funding under section 1501 of the ESEA allows the U.S. Department of Education (Department) to offer an LEA the opportunity to consolidate funds under the above-listed programs to support the LEA in creating a single school funding system based on weighted per-pupil allocations for low-income and otherwise disadvantaged students, with attendant flexibility in using those funds.

Dated: May 18, 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. 2021–10768 Filed 5–20–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—Model Demonstration Projects To Improve Services and Results for Infants, Toddlers, and Children With Disabilities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for Model Demonstration Projects to Improve Services and Results for Infants, Toddlers, and Children with Disabilities, Assistance Listing Number 84.326M. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications Available: May 21, 2021.

Deadline for Transmittal of Applications: July 20, 2021.

Deadline for Intergovernmental Review: September 20, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT:

For Absolute Priority 1: Yolanda Lusane, U.S. Department of Education, 400 Maryland Avenue SW, Room 5031A, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6545. Email: *Yolanda.Lusane@ed.gov.*

For Absolute Priority 2: Tina Diamond, U.S. Department of Education, 400 Maryland Avenue SW, Room 5142, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6723. Email: *Christina.Diamond@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priorities: This competition includes two absolute priorities and one competitive preference priority. In accordance with 34 CFR 75.105(b)(2)(v), the absolute priorities are from allowable activities specified in or otherwise authorized in sections 663 and 681(d) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. 1463, 1481(d)). The competitive preference priority is from the Department's Administrative Priorities for Discretionary Grant Programs published in the **Federal Register** on March 9, 2020 (85 FR 13640) (Administrative Priorities).

Absolute Priorities: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet either Absolute Priority 1 or Absolute Priority 2. The Department may fund out of rank order high-quality applications to ensure that at least three projects are funded under each absolute priority. Applicants may apply under both absolute priorities but must submit separate applications. Applicants must clearly identify if the proposed project addresses Absolute Priority 1 or Absolute Priority 2.

These priorities are:

Absolute Priority 1: Model Demonstration Projects to Develop Identification, Screening, Referral, and Tracking Systems for Infants and Toddlers.

Background:

Model demonstrations to improve early intervention, educational, or transitional results for children with disabilities and their families have been authorized under the IDEA since the law's inception. For the purposes of this priority, a model is a set of existing evidence-based practices,[1] including interventions and implementation strategies (*i.e.,* core model components), that research suggests will improve outcomes for children, families, personnel,[2] administrators, or systems, when implemented with fidelity. Model demonstrations involve investigating the degree to which a given model can be implemented and sustained in real-world settings, by staff employed in those settings, while achieving outcomes similar to those attained under research conditions.

IDEA Part C requires States to have a comprehensive child find system in place so that all infants and toddlers with disabilities in the State who are eligible for early intervention services are identified, located, and evaluated (34 CFR 303.302). The comprehensive child find system must be coordinated with other State agencies who serve young children and must focus on early identification of infants and toddlers with disabilities and those at risk for developmental delays. And it must include a system for making referrals to appropriately identify infants and toddlers with disabilities who need early intervention services. There is a strong evidence base demonstrating that the earlier infants and toddlers with, and at risk for, disabilities are identified and served, the better the outcomes for the child, the family, and the educational and social systems that serve them (McCoy et al., 2017). Missed opportunities within the child find system can have short- and long-term effects. Infants and toddlers who are not expeditiously identified may not receive services critical to helping meet developmental milestones in a timely manner, resulting in a delay or absence of foundational skills needed for later academic success.

While States receiving funding under IDEA Part C are required to have a comprehensive child find system in place, data suggest that these systems are not being implemented as effectively or equitably as they should be. Recent IDEA section 618 (20 U.S.C. 1418) child count data for IDEA Part C showed that nationally 3.48 percent of infants and toddlers are receiving services under IDEA, but the percentage of infants and toddlers served varies across States from 0.85 percent to 10.05 percent. Early childhood professionals argue that the percentage of infants and toddlers served by some States under IDEA Part C is too low, considering that the prevalence of developmental delays has been estimated at 13 percent for young children (Rosenberg et al., 2008) and that approximately 14 percent of school-age children with disabilities are served under IDEA Part B.

Many developmental concerns, delays, and disabilities can be identified early, from birth through age two. However, when delays and disabilities are identified at later ages, interventions can become less effective and more costly over time. Studies show, for example, that despite signs often being present by 12–18 months of age, the typical age of diagnosis for autism spectrum disorder is 4 years of age (Centers for Disease Control and Prevention, 2020). In addition, there are groups of children that are less likely to be identified, located, and evaluated for IDEA Part C. The IDEA section 618 child count data collection show that American Indian or Alaska Native, Asian, and Black or African American infants and toddlers are less likely than those in other racial/ethnic groups to be identified and served under IDEA Part C. Results of a study by Feinberg et al. (2011) showed that at 24 months of age, Black children were 5 times less likely to receive IDEA Part C services than white children.

Of particular concern are infants and toddlers who reside in underserved communities and may lack access to quality child care and experience barriers to accessing routine medical care, which can negatively impact developmental screening and referrals, as screenings are typically conducted by pediatricians and in early childhood programs. Infants and toddlers especially vulnerable to developmental or behavioral issues are those negatively affected by the social determinants of health and other adverse childhood or family experiences such as poverty, racism, and toxic stress, including exposure to abuse, neglect, parental drug or alcohol use, and foster care (Lipkin & Macias, 2020). There are data that suggest, however, that more vulnerable children, such as those in the child welfare system or in Early Head Start, are underrepresented in receiving IDEA Part C services (Rosenberg et al., 2013). The novel coronavirus 2019 (COVID–19) pandemic has added to the difficulty of implementing an effective and equitable comprehensive child find system. State IDEA Part C early intervention systems reported a significant drop in the number of infants and toddlers being referred to their programs (IDEA Infant and Toddler Coordinators Association, 2021).

For State IDEA Part C systems to meet the mandate for comprehensive child find systems, they need to engage in evidence-based approaches and models to equitably identify, locate, and evaluate infants and toddlers with disabilities. Components of evidence-based models include robust identification, developmental screening, referral, and tracking systems. Such models should include systematic developmental screening with standardized screeners for all young children at critical ages. Screening results should be shared across service sectors, and families referred to, and supported in following up with, other systems if there is a developmental concern. Families should be monitored to make sure their infants and toddlers are getting the services and supports that they need to thrive. Evidence-based models should also include State and local infrastructure to support collaboration across agencies and to examine their data to understand, based on the eligibility criteria for IDEA Part C, how many infants and toddlers should be enrolled in services versus are enrolled and which groups of underserved infants and toddlers should be targeted for more focused outreach to address equity concerns.

While evidence-based components of child find systems exist within IDEA Part C systems, model demonstration projects are needed to further refine the key components of child find systems and demonstrate how to bring together identification, screening, referral, and tracking practices to serve infants and toddlers with disabilities and those at risk for developmental delays more effectively and equitably. These model demonstration projects will also identify specific implementation strategies and the system supports needed to implement the models in high-need communities to address especially vulnerable infants and toddlers affected by the social determinants of health and adverse childhood or family experiences. These system supports will include how aspects of the models can

[1] For purposes of this priority, ''evidence-based'' means the proposed project component is supported by promising evidence, which is evidence of the effectiveness of a key project component in improving a ''relevant outcome'' (as defined in 34 CFR 77.1), based on a relevant finding from one of the sources identified under ''promising evidence'' in 34 CFR 77.1.

[2] As defined by section 651(b) of IDEA, the term ''personnel'' means special education teachers, regular education teachers, principals, administrators, related services personnel, paraprofessionals, and early intervention personnel serving infants, toddlers, preschoolers, or children with disabilities, except where a particular category of personnel, such as related services personnel, is identified.

be delivered remotely, creating efficiencies, and building community capacity to implement a comprehensive child find system.

Priority:

The purpose of this priority is to fund three cooperative agreements to establish and operate evidence-based model demonstration projects. The models must implement identification, screening, referral, and tracking systems across health, early care and education, and social service systems that serve and support infants and toddlers and their families within a local community.

The models must address the infrastructure (*e.g.,* implementation teams, data systems) and ongoing supports needed to foster the development, implementation, and evaluation of identification, screening, referral, and tracking systems that effectively serve infants and toddlers with, and at risk for, disabilities and their families within a local community.

The models must demonstrate methods for identifying evidence-based strategies, to be delivered both in-person and remotely, for equitably identifying, screening, referring, and tracking infants and toddlers with, and those at risk for, disabilities within local communities to ensure a focused outreach to typically underserved families and especially vulnerable infants and toddlers affected by social determinants of health and adverse childhood or family experiences.

The models must capture information about challenges to implementation and determine what system supports may assist in meeting those challenges. Additionally, the models must use State and local data, including identification, referral, and tracking data, to provide information about how agencies within a community are collaborating to implement the model and how the implementation is impacting child find services under IDEA Part C. Specifically, the models must use data to examine how many infants and toddlers should be enrolled in IDEA Part C services versus are enrolled within a community. The models must also examine their impact on how families with infants and toddlers with disabilities are able to access other service delivery systems. The model demonstration projects must assess how models can—

- Improve the capacity of local systems to use evidence-based practices, both in-person and remotely, to equitably identify, screen, refer, and track infants and toddlers with, and at risk for, disabilities;
- Improve the infrastructure of local systems to increase equitable and appropriate referrals to Part C at younger ages;
- Improve collaboration across local programs and systems so that infants and toddlers with, or at risk for, disabilities are connected to appropriate high-quality services that result in improved outcomes for children and families within the community; and
- Improve the understanding of how local systems reduce barriers to, and support, the effective and equitable implementation of aspects of the model.

Applicants must propose models that meet the following requirements:

(a) The model's core intervention components must include—

(1) Identification, screening, referral, and tracking practices that are evidence-based;

(2) Procedures to accurately record the number of infants and toddlers with disabilities that are identified, screened, referred, and tracked to compare to the number that should be identified, screened, referred, and tracked based on State and local data for the community being served;

(3) Procedures for building collaboration and agreements between health, early care and education, and social service systems that serve and support infants and toddlers with disabilities and their families within the community;

(4) Methods for implementing equitable identification, screening, referral, and tracking practices across systems;

(5) Strategies for identifying typically underserved families and vulnerable infants and toddlers such as those impacted by social determinants of health and other adverse childhood or family experiences such as poverty, racism, and toxic stress, including exposure to abuse, neglect, parental drug or alcohol use, or homelessness; those who are part of the child welfare system or a ward of the State; and those who do not have a medical home or access to child care;

(6) Methods for measuring the impact of the model, including fidelity measures on the implementation of the practices, data on services being accessed by infants and toddlers with disabilities and their families, data on timeliness and appropriateness of referrals to IDEA Part C, data on the demographics of infants and toddlers referred to IDEA Part C; and child and family outcomes in the community; [3]

(7) Measures of the model's social validity, *i.e.,* measures of system administrators, personnel, and families' satisfaction with the model components, processes, and outcomes;

(8) Procedures to refine the model based on the ongoing fidelity measures on the implementation of the practices, the data collected on which infants and toddlers and their families are accessing services and which services they are or are not accessing, and child and family outcomes in the community; and

(9) Procedures to share data across systems within the community and at the State level so that the data can be used to remove barriers to, and support the implementation and sustainability of, the identification, screening, referral, and tracking systems.

(b) The model's core implementation components must include—

(1) Criteria and strategies for selecting [4] and recruiting sites, which include the health, early care and education, and social service systems in a local community, including approaches to introducing the model to, and promoting the model among, site participants.[5] Applicants are encouraged to choose sites in a variety of communities (*e.g.,* urban, rural, suburban) that are comprised of typically underserved families and vulnerable populations of infants and toddlers (*e.g.,* those impacted by social

[3] Applicants must ensure the confidentiality of individual student data, consistent with the Confidentiality of Information regulations under both Part B and Part C of IDEA. These are codified for IDEA Part C in 34 CFR 303.400–303.417 and for IDEA Part B in 34 CFR 300.610–300.627. The IDEA Part B and C confidentiality regulations, respectively, incorporate different definitions, requirements, and exceptions than those under section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly known as the ''Family Educational Rights and Privacy Act'' (FERPA). The IDEA regulations also include several provisions that are specifically related to infants, toddlers, and children with disabilities receiving services under IDEA and provide protections and other requirements beyond the FERPA regulations. Therefore, examining the IDEA requirements first is the most effective and efficient way to meet the confidentiality requirements of both IDEA and FERPA for children with disabilities. Applicants should also be aware of State laws or regulations concerning the confidentiality of individual records. See *studentprivacy.ed.gov/resources/ferpaidea-cross-walk* and *https://studentprivacy.ed.gov/resources/understanding-confidentiality-requirements-applicable-idea-early-childhood-programs-faq.* Questions regarding IDEA confidentiality regulations can be directed to the OSEP State contact and questions regarding FERPA can be directed to the Student Privacy Policy Office (SPPO) at *https://studentprivacy.ed.gov/contact.*

[4] For factors to consider when selecting model demonstration sites, the applicant should refer to *Assessing Sites for Model Demonstration: Lessons Learned for OSEP Grantees* at *mdcc.sri.com/documents/MDCC_Site_Assessment_Brief_09-30-11.pdf.* The document also contains a site assessment tool.

[5] For factors to consider when preparing for model demonstration implementation, the applicant should refer to *Preparing for Model Demonstration Implementation* at *mdcc.sri.com/documents/MDCC_PreparationStage_Brief_Apr2013.pdf.*

determinants of health and other adverse childhood or family experiences such as poverty, racism, and toxic stress, including exposure to abuse, neglect, parental drug or alcohol use, or homelessness; those who are part of the child welfare system or a ward of the State; and those who do not have a medical home or access to child care);

(2) A lag site implementation design, which allows for model development and refinement at the first site in year one of the project period, with sites two and three implementing a revised model based on data from the first site beginning in subsequent project years;

(3) A professional development component that includes a strategy to work with administrators and personnel, to enable sites to implement the identification, screening, referral, and tracking model with fidelity; and

(4) Measures of the results of the professional development required by paragraph (b)(3) of this section.

(c) The core strategies for sustaining the model must include—

(1) Procedures and materials that permit current and future site-based staff to replicate or appropriately tailor and sustain the model at any site; [6]

(2) Guidelines and procedures to—

(i) Help administrators support equitable identification, screening, referral, and tracking systems;

(ii) Determine the identification, screening, referral, and tracking practices that can be delivered remotely;

(iii) Establish collaboration agreements among agencies and systems;

(iv) Collect and analyze data to identify typically underserved families and vulnerable populations of infants and toddlers within communities and examine IDEA Part C child find practices;

(v) Provide a continuum of child and family support services across health, early care and education, and social service systems; and

(vi) Collect data regarding the connection among identification, screening, referral, and tracking strategies used, the fidelity of the implementation of practices, the services delivered, and child and family outcomes; and communicate regularly about the data at the local and State levels;

(3) Strategies for the grantee to develop a manual, toolkit, and other resources for disseminating information on the final version of the model by the end of the grant period, such as developing easily accessible online products that specify model core components critical for improving outcomes, professional development materials, fidelity measures, key outcomes from the model (*e.g.,* increases in the equity of referrals), and implementation procedures for disseminating the model and its components; and

(4) Strategies for the grantee to assist State and local health, early care and education, and social service systems within the State to scale up a model and its components.

To be considered for funding under this absolute priority, applicants must meet the requirements contained in this priority.

Application Requirements:

An applicant must include in its application—

(a) A detailed review of the literature addressing the proposed evidence-based model or its implementation components and the proposed processes to improve equitable identification, screening, referral, and tracking systems within a site;

(b) A logic model [7] that depicts, at a minimum, the goals, activities, outputs, and outcomes (described in paragraph (a) under the heading *Priority*) of the proposed model demonstration project.

Note: The following websites provide resources for constructing logic models: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework;*

(c) A description of the activities and measures to be incorporated into the proposed model demonstration project (*i.e.,* the project design) to develop equitable identification, screening, referral, and tracking systems, including a timeline of how and when the components are introduced within the model. A detailed and complete description must include the following:

(1) Each of the identification, screening, referral, and tracking system components.

(2) The existing and proposed measures of fidelity of the implementation of evidence-based identification, screening, referral, and tracking practices; services being accessed by infants and toddlers with disabilities and their families; timeliness and appropriateness of referrals to IDEA Part C; demographics of infants and toddlers referred to IDEA Part C; and child and family outcomes in the community, as well as social validity measures. The measures must be described as completely as possible, referenced as appropriate, and included, when available, in Appendix A.

(3) Each of the implementation components, including, at a minimum, those listed under paragraph (b) under the heading *Priority.* The existing or proposed implementation fidelity measures must be described as completely as possible, referenced as appropriate, and included, when available, in Appendix A. In addition, this description must include—

(i) Demographics (*e.g.,* race and ethnicity, social economic status, primary home language) of the families of infants and toddlers with disabilities, including the health, early care and education, and social services that they receive, who live within the local communities that have been identified and successfully recruited as implementation sites for the purposes of this application using the selection and recruitment strategies described in paragraph (b)(1) under the heading *Priority*;

Note: Applicants are encouraged to identify, to the extent possible, the sites willing to participate in the applicant's model demonstration. Final site selection will be determined in consultation with the Office of Special Education Programs (OSEP) project officer following the kick-off meeting described in paragraph (f)(1) of these application requirements; and

(ii) The lag site implementation design for implementation consistent with the requirements in paragraph (b)(2) under the heading *Priority.*

(4) Each of the strategies to promote sustaining and replicating the model, including, at a minimum, those listed under paragraph (c) under the heading *Priority.*

(5) The cost of the fully developed model and its implementation, including the resources used by the model as well as their actual or estimated costs.[8]

(d) A description of the evaluation activities and measures to be incorporated into the proposed model demonstration project. A detailed and complete description must include—

[6] For a guide on documenting model demonstration sustainment and replication, the applicant should refer to *Planning for Replication and Dissemination From the Start: Guidelines for Model Demonstration Projects (Revised)* at *mdcc.sri.com/documents/MDCC_ReplicationBrief_SEP2015.pdf.*

[7] *Logic model* (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

[8] See the *IES Cost Analysis Starter Kit* at *https://ies.ed.gov/seer/cost_analysis.asp.*

(1) A formative evaluation plan, consistent with the project's logic model, that includes evaluation questions, sources of data, a timeline for data collection, and analysis plans. The plan must show how the outcome data (*e.g.,* child, family, or systems measures, social validity) and implementation data (*e.g.,* fidelity, effectiveness of professional development activities) will be used separately or in combination to improve the project during the performance period. These data will be reported in the annual performance report (APR). The plan also must outline how these data will be reviewed by project staff, when they will be reviewed, and how they will be used during the course of the project to adjust the model or its implementation to increase the model's usefulness, generalizability, and potential for sustainability; and

(2) A summative evaluation plan, including a timeline, to collect and analyze data on changes to child, family, or system outcomes over time or relative to comparison groups that can be reasonably attributable to project activities. The plan must show how the child, family, or system outcome and implementation data collected by the project will be used separately or in combination to demonstrate the promise of the model.

(e) A plan to disseminate the results of the project, including the findings that show the model had a beneficial effect on outcomes, the final version of the implemented model, and its associated products (such as curricula, professional development materials, implementation procedures, measures and assessments, guides, and toolkits). The dissemination plan must include the audiences who would most likely benefit from implementing the model and detailed strategies for reaching these audiences. In disseminating the results of the project, grantees must, at a minimum: Collaborate with OSEP-funded TA centers, publish in research and practitioner journals, and present at meetings of professional associations. Grantees may also consider collaborating with personnel preparation programs and OSEP-funded State Personnel Development Grant projects; providing webinars, training sessions, or workshops to State and local agencies; and engaging with other federally funded TA centers, such as Head Start Training and Technical Assistance Centers, research and development centers, research networks, or Regional Educational Laboratories.

(f) A budget for attendance at the following:

(1) A one and one-half day kick-off meeting to be held in Washington, DC, or virtually, after receipt of the award.

(2) A three-day project directors' conference in Washington, DC, or virtually, occurring twice during the project performance period.

(3) Four travel days spread across years two through four of the project period to attend planning meetings, Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP, to be held in Washington, DC, or virtually.

Other Project Activities:

To meet the requirements of this priority, each project, at a minimum, must—

(a) Communicate and collaborate on an ongoing basis with other Department-funded projects, consistent with paragraph (e) under the heading *Application Requirements;*

(b) Maintain ongoing telephone and email communication with the OSEP project officer and the other model demonstration projects funded under this priority;

(c) Provide information annually using a template that captures descriptive data on project site selection and the process of implementing the model in the sites.

Note: The following website provides more information about implementation research: *http://nirn.fpg.unc.edu/learn-implementation.*

(d) If the project maintains a website, include relevant information about the model, the intervention, and the demonstration activities and ensure that the website meets government- or industry-recognized standards for accessibility; and

(e) Ensure that annual progress toward meeting project goals is posted on the project website.

Fifth Year of Project

The Secretary may extend a project one year beyond the initial 48 months to disseminate the results of the project if the grantee is achieving the intended outcomes of the project (as demonstrated by data gathered as part of the project evaluation) and making a positive contribution to identifying the system supports needed to implement the model. Each applicant must include in its application a plan for the full 60-month period. The fifth year must be budgeted at $100,000. In deciding whether to continue funding the project for the fifth year, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a review team consisting of the OSEP project officer and other experts selected by the Secretary. This review will be held during the first half of the fourth year of the project period;

(b) The success and timeliness with which the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's activities have contributed to changed practices and improved outcomes for children with disabilities.

Absolute Priority 2: Model Demonstration Projects To Enhance Social, Emotional, and Mental Health Services and Supports for Middle or High School Youth With and at Risk for Disabilities.

Background:

Model demonstrations to improve early intervention, educational, or transitional results for children with disabilities and their families have been authorized under the IDEA since the law's inception. For the purposes of this priority, a model is a set of existing evidence-based practices,[9] including interventions and implementation strategies (*i.e.,* core model components), that research suggests will improve outcomes for children, families, personnel,[10] administrators, or systems, when implemented with fidelity. Model demonstrations involve investigating the degree to which a given model can be implemented and sustained in real-world settings, by staff employed in those settings, while achieving outcomes similar to those attained under research conditions.

Research shows that by seventh grade, 40 percent of students will have experienced a mental health issue such as anxiety or depression and that, each year, 13 to 20 percent of school-aged children and youth meet the criteria for a mental health disorder (Centers for Disease Control and Prevention, 2013). Suicide is the second leading cause of death among persons aged 10–34 and health data show that the percentages of adolescents not receiving preventive care such as well-child checkups are higher for those ages 16–17 compared with those in younger age groups

[9] For purposes of this priority, ''evidence-based'' means the proposed project component is supported by promising evidence, which is evidence of the effectiveness of a key project component in improving a ''relevant outcome'' (as defined in 34 CFR 77.1), based on a relevant finding from one of the sources identified under ''promising evidence'' in 34 CFR 77.1.

[10] As defined by section 651(b) of IDEA, the term ''personnel'' means special education teachers, regular education teachers, principals, administrators, related services personnel, paraprofessionals, and early intervention personnel serving infants, toddlers, preschoolers, or children with disabilities, except where a particular category of personnel, such as related services personnel, is identified.

(Hedegaard et al., 2020; Black et al., 2016). For the purposes of this priority, mental health includes emotional, psychological, and social well-being. According to the Centers for Disease Control and Prevention, mental health effects how we think, feel, and act and helps determine how we handle stress, relate to others, and make healthy choices (Centers for Disease Control and Prevention, n.d.). In schools, we prioritize three critical and inter-related components of mental health support: Social (how we relate to others), emotional (how we feel), and behavioral (how we act) support to promote overall student well-being positive learning outcomes (Chafouleas, 2020).

Students with disabilities are at a higher risk of experiencing a mental health disorder than their non-disabled peers. For example, 60 percent of children with attention deficit/hyperactivity disorder (ADHD) had at least one other mental, emotional, or behavioral disorder (Danielson et al., 2018). Students with mental health disorders are more likely to exhibit disruptive behavior, have chronic absences, have poor academic performance, and drop out of school (Anderson & Cardoza, 2016). Students with both a disability and a mental health disorder have increased risk of negative post-school outcomes such as a reduced quality of life, unemployment, underemployment, and possibly prison as well (Darney et al., 2013; Hawton et al., 2012). Furthermore, the COVID–19 pandemic has negatively impacted the mental health of school-aged children and youth, with 45 percent of parents with children in grades kindergarten through 12 indicating that their child's mental health is suffering (Calderon, 2020). Even though there is a growing number of school-aged children exhibiting mental health concerns, it is estimated that nearly 60 percent receive no treatment, which can be attributed to lack of access and the stigma that comes with mental health issues (National Association of School Psychologists, 2016).

Although the primary purpose of schools is to deliver an effective academic education, several studies of children's mental health have acknowledged that American schools have become a primary source of mental health services for youth. There is a strong evidence base demonstrating that integrating school-based mental health services and supports can improve academic, social and emotional, and behavioral outcomes for students with and at risk for disabilities (Barry et al., 2013; Hoover et al., 2019; Kern et al., 2017; Kutash et al., 2011).

Despite many children receiving mental health services from their school, there is a limited body of research identifying how to effectively provide those services within the school context. Approximately 20 percent of children have documented mental health needs that require intervention; however, only one-third of these children receive any services. Experts attribute the gap between need and treatment to the shortage of mental health providers and the increase in the number of children requiring services. This gap is significantly greater in rural communities where there is a lack of child psychologists and school or community providers trained in mental health awareness and intervention (Centers for Disease Control and Prevention, 2018). Gaps in access to mental health services are also prevalent in high-risk populations, including students with disabilities; students of color; students in foster care; military-connected youth; youth who identify as lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+); youth involved with the juvenile justice system; and youth who are homeless or abusing controlled substances. Although mental health services are provided in schools, models are needed that demonstrate interagency coordination (*i.e.,* coordination among school-based services and community-based resources, such as community mental health and primary care providers) and coordinated service delivery [11] of evidence-based school mental health services and supports, including prevention, screening, data-based decision making, and effective interventions that can be implemented through approaches (*e.g.,* schoolwide,[12] targeted,[13] and intensive [14]) that can be scaled up to address the needs of high-risk youth, with and at risk for disabilities, including those in rural communities to improve educational, behavioral, and mental health outcomes. The current system is ineffective and inefficient for many students, families, and staff, with notable problems before the pandemic and exacerbated as schools work to respond and recover from COVID impacts. To address the current service delivery limitations, there is increasing recognition of the need to move away from services and supports characterized by ad-hoc involvement of mental health system staff in schools toward approaches that clearly integrate education and mental health systems. For example, within middle schools and high schools, services and supports are often fragmentated because those providing direct services to students, including teachers, counselors, school psychologists, and social workers, are often siloed and work in relative isolation from one another. Additionally, information is needed to determine how aspects of the models can (1) be delivered remotely to increase access to mental health services and supports, either due to lack of access or during disasters (*e.g.,* the pandemic, hurricanes, etc.); (2) focus on integrating prevention, universal screening, and targeted interventions in a school-based setting; and (3) increase the capacity of schools to connect students with mental health providers and specialized mental health professionals.

Priority:

The purpose of this priority is to fund three cooperative agreements to establish and operate evidence-based model demonstration projects. The models must establish and implement an evidence-based integrated school mental health program to enhance social, emotional, and mental health services and supports in middle school or high school settings to support youth with and at risk for disabilities.

The models must address the infrastructure (*e.g.,* implementation teams) and ongoing supports needed to foster the development, implementation, and evaluation of an integrated school mental health services system to support youth with and at risk for disabilities.

The models must demonstrate methods for implementing school-based prevention and universal interventions, early identification of youth with mental health needs, and targeted and intensive school interventions with coordinated service delivery in middle or high schools. The models must use data to provide information about how integrated school mental health services

[11] For the purposes of this priority, ''coordinated service delivery'' refers to services and supports that integrate the education and mental health systems by removing barriers to accessing social, emotional, and school mental health in school and the community.

[12] For the purposes of this priority, ''schoolwide'' approaches refer to services and supports to benefit all children and staff across all school settings.

[13] For the purposes of this priority, ''targeted'' approaches refer to services and supports provided to children who are not successful receiving schoolwide approaches alone. These approaches are more focused and intensive than schoolwide approaches, are often time-limited, and are frequently applied in small group settings.

[14] For the purposes of this priority, ''intensive'' approaches refer to individualized approaches that are specifically designed to address persistent difficulties. These approaches are implemented with greater frequency and for an extended duration than is commonly available in a typical classroom or early intervention setting or require personnel to have knowledge and skills in identifying and implementing multiple evidence-based interventions.

and supports, including interagency coordination and coordinated service delivery, can address the full continuum of student needs and affect child academic, social and emotional, and behavioral [15] outcomes for youth with and at risk for disabilities. The model demonstration projects must assess how models can—

- Improve the capacity of schools and school personnel to identify and support youth with and at risk for disabilities, particularly from underserved groups, who may benefit from or require social, emotional, or mental health services and supports;
- Establish, or support implementation of evidence-based integrated school mental health services and supports, to include prevention and intervention, that improve outcomes for youth with and at risk for disabilities who may benefit from or require social, emotional, or mental health services and supports;
- Improve the capacity of the school and build infrastructure to engage in interagency coordination and coordinated service delivery to support youth with and at risk for disabilities who may benefit from or require social, emotional, or mental health services and supports; and
- Improve understanding of barriers to interagency coordination and coordinated service delivery, including lack of local mental health providers, and how State agencies could reduce barriers to, and support, development and implementation of integrated school mental health services and supports for youth with and at risk for disabilities.

Applicants must propose models that meet the following requirements:

(a) The model's core intervention components must include—

(1) Integrated school social, emotional, and mental health services and supports that are evidence-based;

(2) Ongoing measures of interagency coordination and coordinated service delivery and academic, social and emotional, and behavioral outcomes for youth with and at risk for disabilities who may benefit from or require social, emotional, or mental health services and supports;

(3) Professional development to support school personnel's appropriate and timely use of universal screening and referral data to inform the need for school mental health services and supports, intensity, and frequency dependent on school and student needs;

(4) Procedures to refine the model based on the ongoing evaluation of integrated school mental health services and supports, fidelity of the implementation of evidence-based practices, and student academic, social and emotional, and behavioral outcomes;

(5) Procedures for schools to share data and inform policy at a central office, within the community, and at State levels so that the data can be used to make decisions to remove barriers to, and support, implementation and sustainability of integrated school mental health services and supports; and

(6) Measures of the model's social validity, *i.e.,* measures of personnel, family, student, and administrator satisfaction with the model components, processes, and outcomes.

(b) The model's core implementation components must include—

(1) Criteria and strategies for selecting [16] and recruiting sites and the proposed integrated mental health services and supports for each site, including approaches to introducing the model to, and promoting the model among, site participants.[17] Applicants are encouraged to choose sites from a variety of settings (*e.g.,* urban, tribal, rural, suburban) and populations (*e.g.,* concentration of students receiving free or reduced-price lunch); however, each project must include at least three middle or at least three high schools, with at least one being rural;

(2) A lag site implementation design, which allows for model development and refinement at the first site in year one of the project period, with sites two and three implementing a revised model based on data from the first site beginning in subsequent project years;

(3) A professional development component that includes a strategy to work with administrators, to enable site-based personnel to implement, with fidelity, integrated school mental health services and supports that are culturally responsive; and

(4) Measures of the results of the professional development required by paragraph (b)(3) of this section.

(c) The core strategies for sustaining the model must include—

(1) Procedures and materials that permit current and future site-based staff to replicate or appropriately tailor and sustain the model at any site; [18]

(2) Guidelines and procedures to—

(i) Help administrators support integrated school mental health services and supports, interagency coordination, and coordinated service delivery;

(ii) Provide professional development related to integrated school mental health services and supports including interagency coordination and coordinated service delivery to school personnel;

(iii) Collect data on the effectiveness of the integrated school mental health services and supports, interagency coordination, and coordinated service delivery, and impact of these services on student academic, social and emotional, and behavioral outcomes;

(iv) Match the school mental health service and intensity of the strategies based on school and student need; and

(v) Collect data regarding the increased access of mental health services and supports; the types, frequency, and intensity of services; demographics of students that received services; and the fidelity of the implementation of the model, and communicate regularly about the data at the local, regional (as appropriate), and State levels;

(3) Strategies for the grantee to develop a manual, toolkit, and other resources for disseminating information on the final version of the model by the end of the grant period, such as developing easily accessible online products that specify model core components critical for improving outcomes, professional development materials, fidelity measures, key outcomes from the model, and implementation procedures for disseminating the model and its components; and

(4) Strategies for the grantee to assist State agencies (*e.g.,* State educational agencies (SEAs) and local educational agencies (LEAs)) within the State to scale up a model and its components.

To be considered for funding under this absolute priority, applicants must meet the requirements contained in this priority.

Application Requirements:

An applicant must include in its application—

(a) A detailed review of the literature addressing the proposed evidence-based

[15] For the purposes of this priority, ''behavioral'' refers to attendance, discipline referrals, safety infractions, suspensions and expulsions, and dropout rates.

[16] For factors to consider when selecting model demonstration sites, the applicant should refer to *Assessing Sites for Model Demonstration: Lessons Learned for OSEP Grantees* at *mdcc.sri.com/documents/MDCC_Site_Assessment_Brief_09-30-11.pdf.* The document also contains a site assessment tool.

[17] For factors to consider when preparing for model demonstration implementation, the applicant should refer to *Preparing for Model Demonstration Implementation* at *mdcc.sri.com/documents/MDCC_PreparationStage_Brief_Apr2013.pdf.*

[18] For a guide on documenting model demonstration sustainment and replication, the applicant should refer to *Planning for Replication and Dissemination From the Start: Guidelines for Model Demonstration Projects (Revised)* at *mdcc.sri.com/documents/MDCC_ReplicationBrief_SEP2015.pdf.*

model or its implementation components and the proposed processes to establish and implement integrated school mental health services and supports for middle or high school youth with and at risk for disabilities;

(b) A logic model [19] that depicts, at a minimum, the goals, activities, outputs, and outcomes (described in paragraph (a) under the heading *Priority*) of the proposed model demonstration project.

Note: The following websites provide resources for constructing logic models: *www.osepideasthatwork.org/logicModel* and *www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework;*

(c) A description of the activities and measures to be incorporated into the proposed model demonstration project (*i.e.,* the project design) to develop and implement integrated school mental health services and supports for youth with and at risk for disabilities, including a timeline of how and when the components are introduced within the model. A detailed and complete description must include the following:

(1) Each of the integrated school mental health services and support components.

(2) The existing and proposed measures of effectiveness of integrated school mental health services and supports and interagency coordination and coordinated service delivery; fidelity of the implementation of evidence-based practices; cultural responsiveness of integrated school mental health services and supports, education system characteristics, and child outcomes, as well as social validity measures. The measures must be described as completely as possible, referenced as appropriate, and included, when available, in Appendix A.

(3) Each of the implementation components, including, at a minimum, those listed under paragraph (b) under the heading *Priority.* The existing or proposed implementation fidelity measures, including those measuring the fidelity of the professional development strategy, must be described as completely as possible, referenced as appropriate, and included, when available, in Appendix A. In addition, this description must include—

(i) Demographics, including, at a minimum, the settings of, and children participating in, all of the implementation sites that have been identified and successfully recruited for the purposes of this application using the selection and recruitment strategies described in paragraph (b)(1) under the heading *Priority;*

Note: Applicants are encouraged to identify, to the extent possible, the sites willing to participate in the applicant's model demonstration and if the project is working with middle or high school sites. Final site selection will be determined in consultation with the OSEP project officer following the kick-off meeting described in paragraph (f)(1) of these application requirements; and

(ii) The lag site implementation design for implementation consistent with the requirements in paragraph (b)(2) under the heading *Priority.*

(4) Each of the strategies to promote sustaining and replicating the model, including, at a minimum, those listed under paragraph (c) under the heading *Priority;* and

(5) The cost of the fully developed model and its implementation, including the resources used by the model as well as their actual or estimated costs.[20]

(d) A description of the evaluation activities and measures to be incorporated into the proposed model demonstration project. A detailed and complete description must include—

(1) A formative evaluation plan, consistent with the project's logic model, that includes evaluation questions, sources of data, a timeline for data collection, and analysis plans. The plan must show how the outcome data (*e.g.,* child, personnel, or systems measures, social validity) and implementation data (*e.g.,* fidelity, effectiveness of professional development activities) will be used separately or in combination to improve the project during the performance period. These data will be reported in the annual performance report (APR). The plan also must outline how these data will be reviewed by project staff, when they will be reviewed, and how they will be used during the course of the project to adjust the model or its implementation to increase the model's usefulness, generalizability, and potential for sustainability; and

(2) A summative evaluation plan, including a timeline, to collect and analyze data on changes to child, teacher, service provider, or system outcomes over time or relative to comparison groups that can be reasonably attributable to project activities. The plan must show how the child, personnel, or system outcome and implementation data collected by the project will be used separately or in combination to demonstrate the promise of the model.

(e) A plan to disseminate the results of the project, including the findings that show the model had a beneficial effect on outcomes, the final version of the implemented model, and its associated products (such as curricula, professional development materials, implementation procedures, measures and assessments, guides, and toolkits). The dissemination plan must include the audiences who would most likely benefit from implementing the model and detailed strategies for reaching these audiences. In disseminating the results of the project, grantees must, at a minimum: Collaborate with OSEP-funded TA centers, publish in research and practitioner journals, and present at meetings of professional associations. Grantees may also consider collaborating with personnel preparation programs and OSEP-funded State Personnel Development Grant projects; providing webinars, training sessions, or workshops to State and local agencies; and engaging with other ED-funded TA centers, such as comprehensive centers, research and development centers, research networks, or Regional Educational Laboratories.

(f) A budget for attendance at the following:

(1) A one and one-half day kick-off meeting to be held in Washington, DC, or virtually, after receipt of the award.

(2) A three-day project directors' conference in Washington, DC, or virtually, occurring twice during the project performance period.

(3) Four travel days spread across years two through four of the project period to attend planning meetings, Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP, to be held in Washington, DC, or virtually.

Other Project Activities:

To meet the requirements of this priority, each project, at a minimum, must—

(a) Communicate and collaborate on an ongoing basis with other Department-funded projects, consistent with paragraph (e) under the heading *Application Requirements;*

(b) Maintain ongoing telephone and email communication with the OSEP project officer and the other model demonstration projects funded under this priority;

[19] *Logic model* (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. See 34 CFR 77.1.

[20] See the *IES Cost Analysis Starter Kit* at *https://ies.ed.gov/seer/cost_analysis.asp.*

(c) Provide information annually using a template that captures descriptive data on project site selection and the process of implementing the model in the sites.

Note: The following website provides more information about implementation research: *http://nirn.fpg.unc.edu/learn-implementation.*

(d) If the project maintains a website, include relevant information about the model, the intervention, and the demonstration activities and ensure that the website meets government- or industry-recognized standards for accessibility; and

(e) Ensure that annual progress toward meeting project goals is posted on the project website.

Fifth Year of Project

The Secretary may extend a project one year beyond the initial 48 months to disseminate the results of the project if the grantee is achieving the intended outcomes of the project (as demonstrated by data gathered as part of the project evaluation) and making a positive contribution to identifying the system supports needed to implement the model. Each applicant must include in its application a plan for the full 60-month period. The fifth year must be budgeted at $100,000. In deciding whether to continue funding the project for the fifth year, the Secretary will consider the requirements of 34 CFR 75.253(a), including—

(a) The recommendations of a review team consisting of the OSEP project officer and other experts selected by the Secretary. This review will be held during the first half of the fourth year of the project period;

(b) The success and timeliness with which the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The degree to which the project's activities have contributed to changed practices and improved outcomes for children with disabilities.

Competitive Preference Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional five points to an application that meets the competitive preference priority.

This priority is:

Applications from New Potential Grantees (0 or 5 points).

(a) Under this priority, an applicant must demonstrate that the applicant has not had an active discretionary grant under the 84.326M program, including through membership in a group application submitted in accordance with 34 CFR 75.127–75.129, five years before the deadline date for submission of applications under the program.

(b) For the purpose of this priority, a grant or contract is active until the end of the grant's or contract's project or funding period, including any extensions of those periods that extend the grantee's or contractor's authority to obligate funds.

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Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priorities in this notice.

Program Authority: 20 U.S.C. 1463 and 1481.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The Administrative Priorities.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreements.

Estimated Available Funds: $2,400,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2022 from the list of unfunded applications from this competition.

Maximum Award: We will not make an award exceeding $1,600,000 per project for a project period of 60 months.

Note: Applicants must describe, in their applications, the amount of funding being requested for each 12-month budget period. The fifth-year budget period should be budgeted at $100,000.

Estimated Number of Awards: 6.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* SEAs; State lead agencies under Part C of the IDEA; LEAs, including charter schools that are considered LEAs under State law; IHEs; other public agencies; private nonprofit organizations; outlying areas; freely associated States; Indian Tribes or Tribal organizations; and for-profit organizations.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application. Under 34 CFR 75.708(e), a grantee may contract for supplies, equipment, and other services in accordance with 2 CFR part 200.

4. *Other General Requirements:*

a. Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

b. Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5'' x 11'', on one side only, with 1'' margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (15 points).*

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies;

(ii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population;

(iii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement; and

(iv) The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used effectively in a variety of other settings.

(b) *Quality of the project design (35 points).*

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(ii) The extent to which the design of the proposed project includes a thorough, high-quality review of the relevant literature, a high-quality plan for project implementation, and the use of appropriate methodological tools to ensure successful achievement of project objectives;

(iii) The quality of the proposed demonstration design and procedures for documenting project activities and results;

(iv) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about the effectiveness of the approach or strategies employed by the project; and

(v) The extent to which performance feedback and continuous improvement are integral to the design of the proposed project.

(c) *Adequacy of resources and quality of the management plan (25 points).*

(1) The Secretary considers the adequacy of resources and the quality of the management plan for the proposed project.

(2) In determining the adequacy of resources and the quality of the management plan for the proposed project, the Secretary considers the following factors:

(i) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization;

(ii) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project;

(iii) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project;

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate;

(v) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks; and

(vi) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(d) *Quality of the project evaluation (25 points).*

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project;

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes;

(iii) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies;

(iv) The extent to which the evaluation will provide guidance about effective strategies suitable for replication or testing in other settings; and

(v) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions, and under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not

fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

6. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection, analysis, and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* For the purposes of the Government Performance and Results Act of 1993 (GPRA) and reporting under 34 CFR 75.110, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Model Demonstration Projects to Improve Services and Results for Infants, Toddlers, and Children with Disabilities under the Technical Assistance and Dissemination to Improve Services and Results for Children With Disabilities program. These measures are—

- *Current Program Performance Measure:* The percentage of effective evidence-based program models developed by model demonstration projects that are promoted to States and their partners through the Technical Assistance and Dissemination Network; and
- *Pilot Program Performance Measure:* The percentage of effective program models developed by model demonstration projects that are sustained beyond the life of the model demonstration project.

The current program performance measure and the pilot program performance measure apply to projects funded under this competition, and grantees are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving

the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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

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

David Cantrell,

Deputy Director, Office of Special Education Programs. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2021–10729 Filed 5–20–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Hispanic Serving Institutions Science, Technology, Engineering & Mathematics (HSI STEM) and Articulation Program; Correction

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice; correction.

SUMMARY: On April 30, 2021, the Department of Education (Department) published in the **Federal Register** a notice inviting applications (NIA) for new awards for fiscal year (FY) 2021 for the HSI STEM and Articulation Program, Assistance Listing Number 84.031C. This notice corrects the Award Information and Eligibility Information sections of the NIA. All other information in the NIA, including the June 14, 2021, deadline for transmittal of applications, remains the same.

DATES: This correction is applicable May 21, 2021.

FOR FURTHER INFORMATION CONTACT: Jymece Seward, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Room 2B159, Washington, DC 20202. Telephone: (202) 453–6138. Email: *Jymece.Seward@ed.gov.*

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

SUPPLEMENTARY INFORMATION: On April 30, 2021, the Department published in the **Federal Register** the FY 2021 NIA for the HSI STEM and Articulation Program (86 FR 22947). This notice corrects the Award Information and Eligibility Information sections of the NIA. Specifically, we clarify that the estimated award dollar amounts are provided on a per year basis, and we correct the indirect cost rate information to specify that this program is subject to an unrestricted indirect cost rate.

All other information in the NIA, including the June 14, 2021, deadline for transmittal of applications, remains the same.

Corrections

In FR Document 2021–09079 appearing on page 22947 in the **Federal Register** of April 30, 2021, the following corrections are made:

1. On page 22949, in the third column, in the section entitled ''Award Information'', add ''per year'' after ''$700,000–$1,000,000''.

2. On page 22950, in the second line of the first column, add ''per year'' after ''$775,000''.

3. On page 22950, in the fifth paragraph of the second column, after heading ''b. Indirect Cost Rate Information'', remove the first sentence and add, in its place, ''This program uses an unrestricted indirect cost rate.''

Program Authority: 20 U.S.C. 1067q(b)(2)(B).

Accessible Format: On request to the program contact listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain a copy of the application package in an accessible format. The Department will provide the requestor with and accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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

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

Michelle Asha Cooper,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2021–10740 Filed 5–20–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2021–SCC–0039]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; U.S. Department of Education Grant Performance Report Form (ED 524B)

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 an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before June 21, 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 Alfreida Pettiford, 202–245–6110.

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: U.S. Department of Education Grant Performance Report Form (ED 524B).

OMB Control Number: 1894–0003.

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

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

Total Estimated Number of Annual Responses: 7,595.

Total Estimated Number of Annual Burden Hours: 169,390.

Abstract: The ED 524B form and instructions are used by many ED discretionary grant programs to enable grantees to meet ED deadline dates for submission of performance reports to the Department.

Dated: May 18, 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. 2021–10763 Filed 5–20–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Minority Science and Engineering Improvement Program (MSEIP)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2021 for the MSEIP, Assistance Listing Number 84.120A. This notice relates to the approved information collection under OMB control number 1840–0109.

DATES:

Applications Available: May 21, 2021.

Deadline for Transmittal of Applications: July 6, 2021.

Deadline for Intergovernmental Review: September 3, 2021.

Pre-Application Webinar information: The Department will hold a pre-application meeting via webinar for prospective applicants. Detailed information regarding this webinar will be provided on the website for the MSEIP at *www2.ed.gov/programs/iduesmsi/index.html.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.*

FOR FURTHER INFORMATION CONTACT: Dr. Bernadette Hence, U.S. Department of Education, 400 Maryland Avenue SW, Room 2B125, Washington, DC 20202. Telephone: (202) 453–7913. Email: *Bernadette.Hence@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The MSEIP is designed to effect long-range improvement in science and engineering education at predominantly minority institutions and to increase the flow of underrepresented ethnic minorities, particularly minority women, into scientific and technological careers.

Background: The COVID–19 pandemic has greatly affected schools and postsecondary institutions nationwide. Almost instantaneously, all educational institutions from pre-K to graduate programs had to establish distance education programs even though many schools, institutions, and families lacked the needed technology, software, and training to teach and learn in a remote environment. Recent research (Liu et al., 2020; Son et al., 2020; Panchal et al., 2021) [1] suggests that the COVID–19 pandemic has resulted in long-term stressors that negatively affect the mental health of students. College students are experiencing numerous pandemic-related effects including closures of universities, loss of income, increased alcohol or substance abuse, suicidal thoughts, and symptoms of anxiety (Panchal et al., 2021). In a recent survey of over 2,000 college students conducted in April 2020, one in five respondents reported that their mental health had significantly worsened during the pandemic (Liu et al., 2020). This baseline data underscores the urgent need to aggressively address the mental health needs of college students through strategies for ensuring mental health service access and intentional outreach to students with special circumstances. In developing a proposed project, we strongly encourage applicants to incorporate interventions and preventive strategies to address the mental health impact of the COVID–19 pandemic on college students.

Priority: This notice contains one competitive preference priority. The competitive preference priority is from the notice of final administrative priority and definitions for discretionary grants program published in the **Federal Register** on December 30, 2020 (85 FR 86545) (Remote Learning NFP).

[1] Liu, C.H., Pinder-Amaker, S., Hahm, H.C. & Chen, J.A. (2020). Priorities for addressing the impact of the COVID–19 pandemic on college student mental health. *Journal of American College Health,* DOI: *https://doi.org/10.1080/07448481.2020.1803882.*

Panchal, N., Kamal, R., Cox, C. & Garfield, R. (2021). The implications of COVID–19 for mental health and substance. *https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use.*

Son, C., Hegde, S., Smith, A. & Wang, X. (2020). Effects of Covid–19 on college students' mental health in the United States: Interview survey study. *Journal of Medical internet Research,* 22 (9). DOI: *https://doi.org/10.2196/21279.*

Competitive Preference Priority: For FY 2021, and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional three points to an application that meets this priority. Applicants must indicate in the one-page abstract and on the FY 2021 MSEIP Eligibility Certification Form in the application package whether they address the competitive preference priority.

This priority is:

Building Capacity for Remote Learning (3 points).

Under this priority, an applicant must propose a project that is designed to address one or both of the following priority areas:

(a) Adopting and supporting models that leverage technology (*e.g.,* universal design for learning, competency-based education (as defined in this notice), or hybrid/blended learning) and provide high-quality digital learning content, applications, and tools.

(b) Providing personalized and job-embedded professional learning to build the capacity of educators to create remote learning experiences that advance student engagement and learning through effective use of technology (*e.g.,* synchronous and asynchronous professional learning, professional learning networks or communities, and coaching).

Note: The remote learning environment must be accessible to individuals with disabilities in accordance with Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, as applicable. The remote learning environment must also provide appropriate remote learning language assistance services to English learners.

Definitions: The following definitions are from the Remote Learning NFP.

Competency-based education (also called proficiency-based or mastery-based learning) means learning based on knowledge and skills that are transparent and measurable. Progression is based on demonstrated mastery of what students are expected to know (knowledge) and be able to do (skills), rather than seat time or age.

Remote learning means programming where at least part of the learning occurs away from the physical building in a manner that addresses a learner's education needs. Remote learning may include online, hybrid/blended learning, or non-technology-based learning (*e.g.,* lab kits, project supplies, paper packets).

Program Authority: 20 U.S.C. 1067–1067k.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 637. (e) The Remote Learning NFP.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $3,021,891.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards:

Institutional Project Grants: $200,000–$250,000.

Special Project Grants: $200,000–$250,000.

Cooperative Project Grants: $275,000–$300,000.

Estimated Average Size of Awards:

Institutional Project Grants: $225,000.

Special Project Grants: $225,000.

Cooperative Project Grants: $287,500.

Maximum Awards:

Institutional Project Grants: $250,000.

Special Project Grants: $250,000.

Cooperative Project Grants: $300,000.

Estimated Number of Awards:

Institutional Project Grants: 10.

Special Project Grants: 2.

Cooperative Project Grants: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* The eligibility of an applicant is dependent on the type of MSEIP grant the applicant seeks. There are four types of MSEIP grants: Institutional project, special project, cooperative project, and design project.

Institutional project grants are grants that support the implementation of a comprehensive science improvement plan, which may include any combination of activities for improving the preparation of minority students for careers in science.

There are two types of special project grants. First, there are special project grants for which only minority institutions are eligible. These special project grants support activities that: (1) Improve quality training in science and engineering at minority institutions; or (2) enhance the minority institutions' general scientific research capabilities. There also are special project grants for which all applicants are eligible. These special project grants support activities that: (1) Provide a needed service to a group of eligible minority institutions; or (2) provide in-service training for project directors, scientists, and engineers from eligible minority institutions.

Cooperative project grants assist groups of nonprofit accredited colleges and universities to work together to conduct a science improvement program.

Design project grants assist minority institutions that do not have their own appropriate resources or personnel to plan and develop long-range science improvement programs. We will not award design project grants in the FY 2021 competition.

(a) For institutional project grants, eligible applicants are limited to—

(1) Public and private nonprofit institutions of higher education that: (i) Award baccalaureate degrees; and (ii) are minority institutions;

(2) Public or private nonprofit institutions of higher education that: (i) Award associate degrees; and (ii) are minority institutions that (A) have a curriculum that includes science or engineering subjects; and (B) enter into a partnership with public or private nonprofit institutions of higher education that award baccalaureate degrees in science and engineering.

(b) For special project grants for which only minority institutions are eligible, eligible applicants are described in paragraph (a).

(c) For special project grants for which all applicants are eligible, eligible applicants include those described in paragraph (a), and—

(1) Nonprofit science-oriented organizations, professional scientific societies, and institutions of higher education that award baccalaureate degrees that: (i) Provide a needed service to a group of minority institutions; or (ii) provide in-service training to project directors, scientists,

and engineers from minority institutions; or

(2) A consortia of organizations that provide needed services to one or more minority institutions, the membership of which may include: (i) Institutions of higher education which have a curriculum in science or engineering; (ii) institutions of higher education that have a graduate or professional program in science or engineering; (iii) research laboratories of, or under contract with, the Department of Energy, the Department of Defense, or the National Institutes of Health; (iv) relevant offices of the National Aeronautics and Space Administration, National Oceanic and Atmospheric Administration, National Science Foundation, and National Institute of Standards and Technology; (v) quasi-governmental entities that have a significant scientific or engineering mission; or (vi) institutions of higher education that have State-sponsored centers for research in science, technology, engineering, and mathematics.

(d) For cooperative project grants, eligible applicants are groups of nonprofit accredited colleges and universities whose primary fiscal agent is an eligible minority institution as defined in 34 CFR 637.4(b).

Note: As defined in 34 CFR 637.4(b), ''minority institution'' means an accredited college or university whose enrollment of a single minority group or a combination of minority groups as defined in 34 CFR 637.4 exceeds 50 percent of the total enrollment. The Secretary verifies this information from the data on enrollments (Integrated Postsecondary Education Data System (IPEDS) 12-Month Enrollment survey) furnished by the institution to the National Center for Education Statistics (NCES), United States Department of Education.[2]

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses a training indirect cost rate. This limits indirect cost reimbursement to an entity's actual indirect costs, as determined in its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768), and available at *www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf,* which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the MSEIP grant competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ × 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, except titles, headings, footnotes, quotations, references, and captions.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; budget section, including the narrative budget justification; the assurance and certifications; or the one-page abstract, the resumes, the biography, or letters of support. However, the recommended page limit does apply to all the application narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are from 34 CFR 637.32. Applicants should address each of the selection criteria. The points assigned to each criterion are indicated in the parentheses next to the criterion. An applicant may earn up to a total of 100 points based on the selection criteria and up to 3 additional points

[2] The Secretary uses IPEDS data to verify enrollment in lieu of the Higher Education General Information Surveys HEGIS XIII survey data specified in 34 CFR 637.4(b), as those surveys are no longer conducted.

under the competitive preference priority, for a total score of up to 103 points. All applications will be evaluated based on the selection criteria as follows:

(a) Identification of need for the project (Total 5 points).

(1) The Secretary reviews each application for information that shows the identification of need for the project.

(2) The Secretary looks for information that shows—

(i) An adequate needs assessment;

(ii) An identification of specific needs in science; and

(iii) Involvement of appropriate individuals, especially science faculty, in identifying the institutional needs.

(b) Plan of operation (Total 20 points).

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) Higher quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) Methods of coordination. (See 34 CFR 75.580)

(c) Quality of key personnel (Total 10 points).

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (c)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of a racial or ethnic minority group, women, handicapped persons, and the elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(d) Budget and cost effectiveness (Total 10 points).

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objective of the project.

Note: The Comprehensive Budget Narrative will be part of the information reviewed under this selection criterion.

(e) Evaluation plan (Total 15 points).

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 75.590)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

Note: In considering the quality of an evaluation plan, for each proposed objective, the Secretary may consider, among other things, the baseline indicators of progress for each proposed grant year, the methods of evaluation, the types of data that will be collected to assess the final project outcomes and the data collection procedures that will be used, the proposed timetable for conducting the evaluation, and the procedures for analyzing and using both formative and summative data.

Note: In considering whether an evaluation plan shows methods of evaluation that are objective, the Secretary considers whether the evaluation is to be conducted by an independent evaluator.

(f) Adequacy of resources (Total 5 points).

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

Note: An applicant should indicate if these resources are available at its institution or at partner institutions or if the applicant plans to acquire them.

(g) Potential institutional impact of the project (Total 10 points).

(1) The Secretary reviews each application to determine the extent to which the proposed project gives evidence of potential for enhancing the institution's capacity for improving and maintaining quality science education for its minority students, particularly minority women.

(2) The Secretary looks for information that shows—

(i) For an institutional or cooperative project, the extent to which both the established science education program(s) and the proposed project will expand or strengthen the established program(s) in relation to the identified needs; or

(ii) For a special project, the extent to which it addresses needs that have not been adequately addressed by an existing institutional science program or takes a particularly new and exemplary approach that has not been taken by any existing institutional science program.

(h) Institutional commitment to the project (Total 5 points).

(1) The Secretary reviews each application for information that shows that the applicant plans to continue the project activities when funding ceases.

(2) The Secretary looks for information that shows—

(i) Adequate institutional commitment to absorb any after-the-grant burden initiated by the project;

(ii) Adequate plans for continuation of project activities when funding ceases;

(iii) Clear evidence of past institutional commitment to the provision of quality science programs for its minority students; and

(iv) A local review statement signed by the chief executive officer of the institution endorsing the project and indicating how the project will accelerate the attainment of the institutional goals in science.

(i) Expected outcomes (Total 10 points).

(1) The Secretary reviews each application to determine the extent to which minority students, particularly minority women, will benefit from the project.

(2) The Secretary looks for information that shows—

(i) Expected outcomes likely to result in the accomplishment of the program goal;

(ii) Educational value for science students; and

(iii) Possibility of long-term benefits to minority students, faculty, or the institution.

(j) Scientific and educational value of the proposed project (Total 10 points).

(1) The Secretary reviews each application for information that shows its potential for contributions to science education.

(2) The Secretary looks for information that shows—

(i) The relationship of the proposed project to the present state of science education;

(ii) The use or development of effective techniques and approaches in science education; and

(iii) Potential use of some aspects of the project at other institutions.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* Under the Government Performance and Results Act of 1993, the Department will use the following performance measures to evaluate the success of the MSEIP grants: (1) The percentage of change in the number of full-time, degree-seeking minority undergraduate students at the grantee's institution enrolled in the fields of engineering or physical or biological sciences, compared to the average minority enrollment in the same fields in the three-year period immediately prior to the beginning of the current grant; (2) the percentage of minority students enrolled at four-year minority institutions in the fields of engineering or physical or biological sciences who graduate within six years

of enrollment. Please see the application package for details of data collection and reporting requirements for these measures.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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

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

Michelle Asha Cooper,

Acting Assistant Secretary for the Office of Postsecondary Education.

[FR Doc. 2021–10742 Filed 5–20–21; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Establishment of Local Leadership Council

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice of establishment of the Local Leadership Council.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended (), the EAC announces the establishment of the Local Leadership Council (''Advisory Committee''). The Advisory Committee will advise the EAC on how best to fulfill the EAC's statutory duties as well as such other matters as the EAC determines. Duration of this advisory board is for two years unless renewed by the EAC.

FOR FURTHER INFORMATION CONTACT: Kristen Muthig, EAC Director of Communications (*kmuthig@eac.gov*).

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Local Leadership Council is established under agency authority pursuant to and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2). The Advisory Committee is governed by the Federal Advisory Committee Act, which sets forth standards for the formation and use of advisory committees. The Advisory Committee shall advise the EAC on how best to fulfill the EAC's statutory duties set forth in 52 U.S.C. 20922 as well as such other matters as the EAC determines. It shall provide a relevant and comprehensive source of expert, unbiased analysis and recommendations to the EAC on local election administration topics to include but are not limited to voter registration and registration database maintenance, voting system user practices, ballot administration (programming, printing, and logistics), processing, accounting, canvassing, chain of custody, certifying results, and auditing.

II. Structure

The Local Leadership Council shall consist of 100 members. The Election Assistance Commission shall appoint two (2) members from each state after soliciting nominations from each state's election official professional association. Upon appointment, Advisory Committee members must be serving or have previously served in a leadership role in a state election official professional association.

Elections in the United States are ultimately administered by local election officials operating under election laws and procedures that often differ from state to state. By appointing two members from each state, members of the Advisory Committee will be chosen in a way that ensures geographic diversity, objectivity, and balance as well as encompass the full spectrum of election administration expertise throughout the United States. Local election officials are impacted by all of the EAC's statutory duties set forth in 52 U.S.C. 20922. The Advisory Committee's guidance and recommendations will be key to the ongoing success of the EAC's mission and programs.

Members shall be invited to serve for a term of 2 years and may serve consecutive terms. As necessary, subcommittees may be established by the EAC. The Committee will meet a minimum of once a year for the purposes of advising the EAC.

III. Compensation

Local Leadership Council members shall not be compensated for their services but will, upon request, be reimbursed for or provided with travel and per diem expenses in accordance with 5 U.S.C. 5701 *et seq.,* while attending Advisory Committee meetings or subcommittee meetings thereof, while away from their homes or regular places of business.

Authority: 5 U.S.C. Appendix 2.

Amanda Joiner,

Associate Counsel, U.S. Election Assistance Commission.

[FR Doc. 2021–10787 Filed 5–20–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC21–24–000]

Commission Information Collection Activities (FERC–537); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–537 (Gas Pipeline Certificates: Construction, Acquisition, and Abandonment).

DATES: Comments on the collection of information are due July 20, 2021.

ADDRESSES: You may submit copies of your comments (identified by Docket No. IC21–24–000) by one of the following methods:

Electronic filing through *http://www.ferc.gov* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:
  - *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.
  - *Hand (including courier) Delivery:* Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–537 (Gas Pipeline Certificates: Construction, Acquisition, and Abandonment).

OMB Control No.: 1902–0060.

Type of Request: Three-year extension of the FERC–537 information collection requirements with no changes to the reporting requirements.

Abstract: The FERC–537 information collection requires natural gas companies to file information with FERC in order for the Commission to determine if the requested certificate should be authorized. Section 7 of the Natural Gas Act [1] requires natural gas companies to obtain Commission approval before constructing, extending, or abandoning facilities or service. The Commission implements section 7 primarily under regulations at 18 CFR part 157, subpart A. In addition, some regulations at 18 CFR part 284 are involved.

When the Commission grants a request to construct or extend pipeline facilities or service, it issues a certificate of public convenience and necessity.

The data generally required to be submitted in a certificate filing consists of identification of the company and responsible officials, factors considered in the location of the facilities and the impact on the area for environmental considerations. Also, to be submitted are the following, as applicable to the specific request:

- Flow diagrams showing the design capacity for engineering design verification and safety determination;
- Cost of proposed facilities, plans for financing, and estimated revenues and expenses related to the proposed facility for accounting and financial evaluation; or
- Existing and proposed storage capacity and pressures and reservoir engineering studies for requests to increase storage capacity.

Applications for an order authorizing abandonment of facilities or service must contain a statement providing in detail the reasons for the requested abandonment and must contain exhibits listed at 18 CFR 157.18, as well as an affidavit showing the consent of existing customers. With some exceptions, such applications also must include an environmental report.

Applicants filing in accordance with 18 CFR part 157, subpart A (either for a certificate or for abandonment) generally must make a good-faith effort to provide notice of the application to all affected landowners, towns, communities, and government agencies.

Certain self-implementing construction and abandonment programs do not require the filing of applications. However, those types of programs do require the filing of annual reports, so many less significant actions can be reported in a single filing/response and less detail would be required. Additionally, requests for an increase of pipeline capacity must include a statement that demonstrates compliance with the Commission's Certificate Policy Statement by making a showing that the cost of the expansion will not be subsidized by existing customers and that there will not be adverse economic impacts to existing customers, competing pipelines or their customers, nor to landowners and to surrounding communities.

The Commission reviews and analyses the information filed under the regulations subject to FERC–537 to determine whether to approve or deny the requested authorization. If the Commission failed to collect these data, it would lose its ability to review relevant information to determine whether the requested certificate should be authorized.

Type of Respondents: Jurisdictional natural gas companies.

Estimate of Annual Burden: [2] The Commission estimates the annual public reporting burden for the information collection as:

[1] 15 U.S.C. 7f7f.

[2] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. Refer to 5 CFR 1320.3 for additional information.

[3] Changes to estimated number of respondents were based on average number of respondents over the past three years.

[4] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $83.00/hour = Average cost/response. The figure is the 2021 FERC average hourly cost (for wages and benefits) of $83.00 (and an average annual salary of $172,329/year). Commission staff is using the FERC average salary because we consider any reporting requirements completed in response to the FERC–537 to be compensated at rates similar to the work of FERC employees.

[5] Each of the figures in this column are rounded to the nearest dollar.

[6] A Certificate Abandonment Application would require waiver of the Commission's capacity release regulations in 18 CFR 284.8; therefore this activity is associated with Interstate Certificate and Abandonment Applications.

FERC–537 (GAS PIPELINE CERTIFICATES: CONSTRUCTION, ACQUISITION, AND ABANDONMENT) [3]

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response [4] (4)	Total annual burden hours & total annual cost (3) * (4) = (5)	Cost per respondent ($) (5) ÷ (1) [5]
18 CFR 157.5–.11 (Interstate Certificate and Abandonment Applications).	31	1.39	43	500 hrs.; $41,500	21,500 hrs; $1,784,500 ..	$57,565
18 CFR 157.53 (Pipeline Purging/Testing Exemptions).	1	1	1	50 hrs.; $4,150	50 hrs.; $4,150	4,150
18 CFR 157.201–.209; 157.211; 157.214–.218 (Blanket Certificates Prior to Notice Filings).	24	2.125	51	200 hrs.; $16,600	10,200 hrs.; $846,600	35,275
18 CFR 157.201–.209; 157.211; 157.214–.218 (Blanket Certificates—Annual Reports).	162	1	162	50 hrs.; $4,150	8,100 hrs.; $672,300	4,150
18 CFR 284.11 (NGPA Section 311 Construction—Annual Reports).	75	1	75	50 hrs.; $4,150	3,750 hrs.; $311,250	4,150
18 CFR 284.8 [6] (Request for Waiver of Capacity Release Regulations).	31	1.39	43	10 hrs.: $830	430 hrs.; $35,690	830.00
18 CFR 284.13(e) and 284.126(a) (Interstate and Intrastate Bypass Notice).	2	1	2	30 hrs.; $2,490	60 hrs.; $4,980	2,490
18 CFR 284.221 (Blanket Certificates)	1	1	1	100 hrs.; $8,300 ...	100 hrs.; $8,300	8,300
18 CFR 284.224 (Hinshaw Blanket Certificates).	1	1	1	75 hrs.; $6,225	75 hrs.; $6,225	6,225
18 CFR 157.5–.11; 157.13–.20 (Non-facility Certificate or Abandonment Applications.	11	1.36	15	75 hrs.; $6,225	1,125 hrs.; $93,375	8,489
Total	.....	.....	394	.....	45,390 hrs.; $3,767,370	.....

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: May 14, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10694 Filed 5–20–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–72–000]

LS Power Development, LLC, Doswell Limited Partnership v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on May 7, 2021, pursuant to sections 206, and 306 of the Federal Power Act, 16 U.S.C. 824e, 825e and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, LS Power Development, LLC and Doswell Limited Partnership (Complainants) filed a formal complaint against PJM Interconnection, L.L.C., (Respondent or PJM) alleging that the Respondent violated the Reliability Assurance Agreement among Load Serving Entities in the PJM Region, all as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondent in the Commission's list of Corporate Officials, and on the Independent Market Monitor for PJM.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov,* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on May 27, 2021.

Dated: May 14, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10695 Filed 5–20–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–145–000.
Applicants: Rockhaven Wind, LLC.
Description: Rockhaven Wind Project, LLC submits Exempt Wholesale Generator Notice of Self-Certification.
Filed Date: 5/12/21.
Accession Number: 20210512–5229.
Comments Due: 5 p.m. ET 6/2/21.

Docket Numbers: EG21–146–000.
Applicants: Wheatridge Solar Energy Center, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Wheatridge Solar Energy Center, LLC.
Filed Date: 5/14/21.
Accession Number: 20210514–5177.
Comments Due: 5 p.m. ET 6/4/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–227–003.
Applicants: Jersey Central Power & Light Company, PJM Interconnection, L.L.C.
Description: Compliance filing: JCP&L submits Compliance Filing in ER20–227 to be effective 1/1/2020.
Filed Date: 5/14/21.
Accession Number: 20210514–5126.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1280–001.
Applicants: Southern California Edison Company.
Description: Tariff Amendment: SCE's Response to Deficiency Letter—WOD Formula Rate under ER21–1280 to be effective 5/5/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5002.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1475–001.
Applicants: Orange and Rockland Utilities, Inc.
Description: Tariff Amendment: Revised O&R Undergrounding to be effective 4/1/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5051.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1906–000.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Cancellation: Termination of E&P Agreement VP Development (TO SA 2100 EP–25) to be effective 7/14/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5001.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1907–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3023R1 Panama Wind GIA to be effective 5/4/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5019.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1908–000.
Applicants: NSTAR Electric Company.
Description: § 205(d) Rate Filing: Cranberry Power Energy Storage, LLC—Design and Engineering Agreement to be effective. 5/15/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5041.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1909–000.
Applicants: Liberty Utilities (Granite State Electric) Corp.
Description: § 205(d) Rate Filing: Borderline Sales Rate Sheet Update May 2021 to be effective 5/1/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5078.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1911–000.
Applicants: New York Independent System Operator, Inc., New York State Electric & Gas Corporation.
Description: § 205(d) Rate Filing: Joint 205 SGIA among NYISO, NYSEG, Puckett Solar SA2545, CEII to be effective 4/30/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5119.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1912–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: Revisions to Modify SPP Holidays Definition in Attachment AE to be effective 7/14/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5140.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1913–000.
Applicants: PJM Interconnection, L.L.C., Ohio Power Company, American Electric Power Service Corporation.
Description: § 205(d) Rate Filing: AEP submits SA No. 6071 Guernsey Maintenance Agreement to be effective 4/15/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5151.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1914–000.
Applicants: Vitol Inc.
Description: § 205(d) Rate Filing: Normal filing Change in status to be effective 5/15/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5167.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1915–000.
Applicants: Big Sky Wind, LLC.
Description: § 205(d) Rate Filing: Normal filing Change in status to be effective 5/15/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5168.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1916–000.
Applicants: Assembly Solar III, LLC.
Description: Baseline eTariff Filing: Baseline new to be effective 7/14/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5173.
Comments Due: 5 p.m. ET 6/4/21.

Docket Numbers: ER21–1917–000.
Applicants: Assembly Solar III, LLC.
Description: § 205(d) Rate Filing: Certificate of Concurrence of Assembly Solar to be effective 7/14/2021.
Filed Date: 5/14/21.
Accession Number: 20210514–5178.
Comments Due: 5 p.m. ET 6/4/21.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES21–46–000.
Applicants: Golden Spread Electric Cooperative, Inc.
Description: Application under Section 204 of the Federal Power Act for Continued Authorization to Issue Securities of Golden Spread Electric Cooperative, Inc.
Filed Date: 5/14/21.
Accession Number: 20210514–5129.
Comments Due: 5 p.m. ET 6/4/21.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: May 14, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–10663 Filed 5–20–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9056–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed May 10, 2021 10 a.m. EST Through May 17, 2021 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20210053, Draft, USA, CA, Training and Public Land Withdrawal Extension, Fort Irwin, California, Comment Period Ends: 07/06/2021, Contact: Muhammad Bari 760–380–3543.

EIS No. 20210054, Draft, NMFS, MD, Draft Amendment 13 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan, Comment Period Ends: 07/20/2021, Contact: Thomas A Warren 978–281–9347.

EIS No. 20210055, Final, FAA, CA, Bob Hope ''Hollywood-Burbank'' Airport Replacement Passenger Terminal, Contact: Edvige B. Mbakoup 424–405–7283. Under 49 U.S.C. 304a(b), FAA has issued a single document that consists of a final environmental impact statement and record of decision. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20210056, Draft, Caltrans, FRA, CA, Coachella Valley-San Gorgonio Pass Rail Corridor Service Program Tier 1/Program Environmental Impact Statement/Environmental Impact Report, Comment Period Ends: 07/06/2021, Contact: Amanda Ciampolillo 617–494–2173.

Dated: May 17, 2021.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2021–10762 Filed 5–20–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0720; FRL–10022–73]

Pesticide Registration Review; Draft Human Health and/or Ecological Risk Assessments for Several Pesticides; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of EPA's draft human health and/or ecological risk assessments for the registration review of chlormequat chloride, chlorothalonil and tebuconazole.

DATES: Comments must be received on or before July 20, 2021.

ADDRESSES: Submit your comments, to the docket identification (ID) number for the specific pesticide of interest provided in the Table in Unit IV, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, are available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: *For pesticide specific information contact:* The Chemical Review Manager for the pesticide of interest identified in the Table in Unit IV.

For general questions on the registration review program, contact: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 305–7106; email address: *biscoe.melanie@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager identified in the Table in Unit IV.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. Background

Registration review is EPA's periodic review of pesticide registrations to ensure that each pesticide continues to satisfy the statutory standard for registration, that is, the pesticide can perform its intended function without

unreasonable adverse effects on human health or the environment. As part of the registration review process, the Agency has completed comprehensive draft human health and/or ecological risk assessments for all pesticides listed in the Table in Unit IV. After reviewing comments received during the public comment period, EPA may issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments and may request public input on risk mitigation before completing a proposed registration review decision for the pesticides listed in the Table in Unit IV. Through this program, EPA is ensuring that each pesticide's registration is based on current scientific and other knowledge, including its effects on human health and the environment.

III. Authority

EPA is conducting its registration review of the chemicals listed in the Table in Unit IV pursuant to section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. Section 3(g) of FIFRA provides, among other things, that the registrations of pesticides are to be reviewed every 15 years. Under FIFRA, a pesticide product may be registered or remain registered only if it meets the statutory standard for registration given in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). When used in accordance with widespread and commonly recognized practice, the pesticide product must perform its intended function without unreasonable adverse effects on the environment; that is, without any unreasonable risk to man or the environment, or a human dietary risk from residues that result from the use of a pesticide in or on food.

IV. What action is the agency taking?

Pursuant to 40 CFR 155.58, this notice announces the availability of EPA's human health and/or ecological risk assessments for the pesticides shown in the following table and opens a 60-day public comment period on the risk assessments.

TABLE—DRAFT RISK ASSESSMENTS BEING MADE AVAILABLE FOR PUBLIC COMMENT

Registration review case name and No.	Docket ID No.	Chemical review manager and contact information
Chlormequat chloride; Case 7069	EPA–HQ–OPP–2015–0816	James Douglass, *douglass.james@epa.gov*, (703) 347–8630.
Chlorothalonil; Case 0097	EPA–HQ–OPP–2011–0840	Jon Williams, *williams.jonathanr@epa.gov*, (703) 347–0670.
Tebuconazole; Case 7004	EPA–HQ–OPP–2015–0378	Theodore Varns, *varns.theodore@epa.gov*, (703) 347–8589.

Pursuant to 40 CFR 155.53(c), EPA is providing an opportunity, through this notice of availability, for interested parties to provide comments and input concerning the Agency's draft human health and/or ecological risk assessments for the pesticides listed in the Table in Unit IV. The Agency will consider all comments received during the public comment period and make changes, as appropriate, to a draft human health and/or ecological risk assessment. EPA may then issue a revised risk assessment, explain any changes to the draft risk assessment, and respond to comments.

Information submission requirements. Anyone may submit data or information in response to this document. To be considered during a pesticide's registration review, the submitted data or information must meet the following requirements:

- To ensure that EPA will consider data or information submitted, interested persons must submit the data or information during the comment period. The Agency may, at its discretion, consider data or information submitted at a later date.
- The data or information submitted must be presented in a legible and useable form. For example, an English translation must accompany any material that is not in English and a written transcript must accompany any information submitted as an audio-graphic or video-graphic record. Written material may be submitted in paper or electronic form.
- Submitters must clearly identify the source of any submitted data or information.
- Submitters may request the Agency to reconsider data or information that the Agency rejected in a previous review. However, submitters must explain why they believe the Agency should reconsider the data or information in the pesticide's registration review.

As provided in 40 CFR 155.58, the registration review docket for each pesticide case will remain publicly accessible through the duration of the registration review process; that is, until all actions required in the final decision on the registration review case have been completed.

Authority: 7 U.S.C. 136 *et seq.*

Dated: April 23, 2021.

Mary Reaves,

Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2021–10715 Filed 5–20–21; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2021–0293; FRL–10023–74]

Nominations to the Federal Insecticide, Fungicide, and Rodenticide Act Scientific Advisory Panel; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice provides the names, addresses, and professional affiliations of persons recently nominated to serve on the Scientific Advisory Panel (SAP) established under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Panel was created on November 28, 1975, and made a permanent Panel by amendment to FIFRA, dated October 25, 1988. The Agency, at this time, anticipates selecting new members to serve on the panel because of the upcoming expirations of membership terms. Current members of the SAP are eligible for reappointment during this period. Therefore, the appointments completed over the next year may include a mix of newly appointed and reappointed members. As additional background, the biographies of current SAP members are available on the FIFRA SAP website at: *https://www.epa.gov/sap*. Public comments on the current nominations are invited, as these comments will be

used to assist the Agency in selecting the new members for the chartered SAP.

DATES: Comments identified by docket ID number EPA–HQ–OPP–2021–0293, must be received on or before June 21, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2021–0293, using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or information whose disclosure is restricted by statute. Comments submitted to the EPA, including any personal information that is in the body of the submission, will be publicly posted to *https://www.regulations.gov* and are also made available for in-person viewing at the EPA Docket Center's Reading Room. There are some exceptions. Please see additional instructions on commenting or visiting the docket, along with more information about dockets generally, available at *http://www.epa.gov/dockets.*

Please note that due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Public Reading Room are closed to visitors with limited exceptions. The EPA/DC staff continue 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: Steven Knott, M.S., Designated Federal Officer (DFO), Office of Program Support, Environmental Protection Agency; telephone number: (202) 564–0103; email address: *knott.steven@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) and FIFRA. Given other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI information to EPA through *regulations.gov* or email. If your comments contain any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your comments.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets#tips.*

II. Background

The FIFRA SAP serves as a scientific peer review mechanism of EPA's Office of Chemical Safety and Pollution Prevention (OCSPP) and is structured to provide independent scientific advice, information, and recommendations to the EPA Administrator on pesticides and pesticide-related issues as to the impact of regulatory actions on health and the environment. The FIFRA SAP is a federal advisory committee established in 1975 under FIFRA that operates in accordance with requirements of the Federal Advisory Committee Act (5 U.S.C. Appendix). The FIFRA SAP is composed of a permanent panel consisting of seven members who are appointed by the EPA Administrator from nominees provided by the National Institutes of Health (NIH) and the National Science Foundation (NSF). Members serve staggered terms of appointment, generally of three to six years duration. FIFRA established a Science Review Board (SRB) consisting of at least 60 scientists who are available to the FIFRA SAP on an ad hoc basis to assist in reviews conducted by the FIFRA SAP. As a scientific peer review mechanism, the FIFRA SAP provides comments, evaluations, and recommendations to improve the effectiveness and quality of analyses made by Agency scientists. Members of the FIFRA SAP are scientists who have sufficient professional qualifications, including training and experience, to provide expert advice and recommendations to the Agency.

III. Charter

A Charter for the FIFRA SAP, dated October 17, 2020, was issued in accordance with the requirements of the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770 (5 U.S.C. Appendix). The Charter provides for open meetings with opportunities for public participation.

IV. Nominees

A. Qualifications of Members

Members are scientists who have sufficient professional qualifications, including training and experience, to provide expert comments on the impact of pesticides on human health and the environment. In accordance with section 25(d)(1) of FIFRA, the Administrator shall require nominees to the FIFRA SAP to furnish information concerning their professional qualifications, including educational background, employment history, and scientific publications. No persons shall be ineligible to serve on the FIFRA SAP by reason of their membership on any other advisory committee to a federal department or agency, or their employment by a federal department or agency (except the EPA). FIFRA further stipulates that the Agency publish the name, address, and professional affiliation of the nominees in the **Federal Register**.

B. Applicability of Existing Regulations

With respect to the requirements of section 25(d) of FIFRA that the Administrator promulgate regulations regarding conflicts of interest, FIFRA SAP members are subject to the provisions of the Standards of Ethical Conduct for Employees of the Executive Branch at 5 Code of Federal Regulations Part 2635, conflict of interest statutes in Title 18 of the United States Code, and related regulations. Each nominee selected by the Administrator, before being formally appointed, is required to submit a Confidential Financial Disclosure Form, which shall fully disclose, among other financial interests, the nominee's sources of research support, if any.

C. Process of Obtaining Nominees

The Agency, at this time, anticipates selecting new members to serve on the panel to address upcoming expirations of membership terms.

On February 5, 2021, in accordance with the provisions of section 25(d) of FIFRA, EPA requested that the NIH and the NSF nominate scientists to fill vacancies occurring on the FIFRA SAP. The Agency requested that NIH and NSF nominate experts in the fields of ecological and human exposure assessment, including expertise in environmental fate and transport of chemicals, mathematical biostatistics, New Approach Methodologies (NAMs), including *in vitro* to *in vivo* extrapolation (IVIVE), and expertise in toxicology, including carcinogenicity and physiologically-based pharmacokinetic modeling (PBPK).

Experts with specific experience in risk assessment, dose response analysis, cheminformatics, bioinformatics, and genomics are preferred. Nominees should be well published and current in their fields of expertise.

NIH and NSF responded, providing the Agency with a total of 25 nominees. One nominee, Dr. Jeffrey Bloomquist, Ph.D., of the University of Florida is a member of the FIFRA SAP with a current term ending in 2022. Therefore, he is not considered further at this time. Of the remaining 24 nominees, 10 are interested and available to actively participate in FIFRA SAP meetings (see Unit IV.D.).

The following 14 individuals are not available to be considered further for membership at this time:

1. *Joseph Braun, Ph.D.,* Brown University, Providence, Rhode Island.
2. *Brenda Eskanazi, Ph.D.,* University of California-Berkeley, Berkeley, California.
3. *Elaine Faustman, Ph.D.,* University of Washington, Seattle, Washington.
4. *Phillipe Grandjean, Ph.D.,* Harvard T.H. Chan School of Public Health, Boston, Massachusetts.
5. *Paul Hollenberg, Ph.D.,* University of Michigan Medical School, Ann Arbor, Michigan.
6. *Mary K. O'Rourke, Ph.D.,* University of Arizona, Tucson, Arizona.
7. *Angela Peace, Ph.D.,* Texas Tech University, Lubbock, Texas.
8. *Kenneth Portier, Ph.D.,* Independent Consultant, Atlanta, Georgia.
9. *Jason Rohr, Ph.D.,* University of Notre Dame, Notre Dame, Indiana.
10. *Nathaniel Scholz, Ph.D.,* NOAA Northwest Fisheries Science Center, Seattle, Washington.
11. *Ronald Tjeerdema, Ph.D.,* University of California-Davis, Davis, California.
12. *Tim Verslycke, Ph.D.,* Gradient Corp., Boston, Massachusetts.
13. *Christopher P. Weis, Ph.D.,* National Institute of Environmental Health Sciences, Bethesda, Maryland.
14. *William Wuest, Ph.D.,* Emory University, Atlanta, Georgia.

D. Interested and Available Nominees

The following are the names, addresses, and professional affiliations of current nominees being considered for membership on the FIFRA SAP. Selected biographical data for each nominee is available in the public docket at *www.regulations.gov* (docket identification (ID) number EPA–HQ–OPP–2021–0293) and through the FIFRA SAP website at *https://www.epa.gov/sap.* The Agency, at this time, anticipates selecting new members to fill upcoming vacancies occurring on the Panel:

1. *Dana Barr, Ph.D.,* Emory University, Atlanta, Georgia.
2. *Veronica Berrocal, Ph.D.,* University of California, Irvine, California.
3. *Asa Bradman, Ph.D.,* University of California, Berkeley, California.
4. *Glenn Allen Burton, Ph.D.,* University of Michigan, Ann Arbor, Michigan.
5. *Celia Chen, Ph.D.,* Dartmouth College, Hanover, New Hampshire.
6. *Richard DiGiulio Ph.D.,* Duke University, Durham, North Carolina.
7. *Valery Forbes, Ph.D.,* University of Minnesota, Minneapolis, Minnesota.
8. *Cheryl A. Murphy, Ph.D.,* Michigan State University, East Lansing, Michigan.
9. *Virginia Rauh, Ph.D.,* Columbia University, New York, New York.
10. *Lisa M. Sweeney, Ph.D.,* UES, Inc., Dayton, Ohio.

Authority: 7 U.S.C. 136 *et. seq.;* 21 U.S.C. 301 *et seq.;* 5 U.S.C. Appendix.

Dated: May 17, 2021.

Michal Freedhoff,

Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2021–10743 Filed 5–20–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; FRS 28151]

Next Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission released a public notice announcing the meeting of the North American Numbering Council (NANC), which will be held via video conference and available to the public via live internet feed.

DATES: Wednesday, June 23, 2021. The meeting will come to order at 2:00 p.m.

ADDRESSES: The meeting will be conducted via video conference and available to the public via the internet at *http://www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Jordan Reth, Acting Designated Federal Officer, at *jordan.reth@fcc.gov* or 202–418–1418. More information about the NANC is available at *https://www.fcc.gov/about-fcc/advisory-committees/general/north-american-numbering-council.*

SUPPLEMENTARY INFORMATION: The NANC meeting is open to the public on the internet via live feed from the FCC's web page at *http://www.fcc.gov/live.* Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the FCC to contact the requester if more information is needed to fill the request. Please allow at least five days' advance notice for accommodation requests; last minute requests will be accepted but may not be possible to accommodate. Members of the public may submit comments to the NANC in the FCC's Electronic Comment Filing System, ECFS, at *www.fcc.gov/ecfs.* Comments to the NANC should be filed in CC Docket No. 92–237. This is a summary of the Commission's document in CC Docket No. 92–237, DA 21–578, released May 14, 2021.

Proposed Agenda: At the June 23 meeting, the NANC will consider and vote on recommendations from the Numbering Administration Oversight working group on the North American Numbering Plan Billing & Collection Fund Size Projections and Contributions Factor, as well as an evaluation of the performance of the Billing & Collection Agent, Welch LLP. The NANC will also hear reports from the Billing & Collection Agent, Welch LLP, the Numbering Administration Oversight working group on the Reassigned Numbers Database and Administrator, and routine status reports from the North American Portability Management, LLC and the Secure Telephone Identity Governance Authority. This agenda may be modified at the discretion of the NANC Chair and the Designated Federal Officers (DFO). (5 U.S.C. App 2 § 10(a)(2))

Federal Communications Commission.

Daniel Kahn,

Associate Bureau Chief, Wireline Competition Bureau.

[FR Doc. 2021–10786 Filed 5–20–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request [OMB No. 3064–0082; and –0084]

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Agency information collection activities: Submission for OMB review; comment request.

SUMMARY: The FDIC, as part of its obligations under the Paperwork

Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on the request to renew the existing information collections described below (OMB Control No. 3064–0082; and –0084).

DATES: Comments must be submitted on or before June 21, 2021.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *https://www.FDIC.gov/regulations/laws/federal.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

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: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: *Proposal to renew the following currently approved collections of information:*

1. Title: Recordkeeping, Disclosure and Reporting Requirements in Connection with Regulation Z.

OMB Control Number: 3064–0082.

Form Number: None.

Affected Public: FDIC-supervised institutions.

Burden Estimate: The total estimated annual burden is 2,031,731 hours and is detailed in the following tables:

SUMMARY OF ESTIMATED ANNUAL IMPLEMENTATION BURDEN

[OMB No. 3064–0082]

IC description	Type of burden (obligation to respond)	Frequency of response	Number of respondents	Number of responses/ respondent	Estimated time per response (minutes)	Annual burden (hours)
Open-End Credit Products • Not Home-Secured Open-End Credit Plans ○ Credit and Charge Card Provisions						
Timely Settlement of Estate Debts (1026.11(c)(1)) Written Policies and Procedures.	Recordkeeping (Mandatory)	On occasion	8	1	480.00	64
Ability to Pay (1026.51(a)(ii)) Written Policies and Procedures.	Recordkeeping (Mandatory)	On occasion	8	1	480.00	64
Mortgage Products (Open and Closed-End) • Valuation Independence ○ Mandatory Reporting						
Implementation of Policies and Procedures (1026.42(g))	Recordkeeping (Mandatory)	On occasion	8	1	1,200.00	160
Total Annual Implementation Burden Hours						288 hours

Source: FDIC.

SUMMARY OF ESTIMATED ANNUAL ONGOING BURDEN

[OMB No. 3064–0082]

IC description	Type of burden (obligation to respond)	Frequency of response	Number of respondents	Number of responses/ respondent	Estimated time per response (minutes)	Annual burden (hours)
Open-End Credit Products • Not Home-Secured Open-End Credit Plans ○ General Disclosure Rules for Not Home-Secured Open-End Credit Plans						
1. Credit and Charge Card Applications and Solicitations (1026.60).	Disclosure (Mandatory)	Annual	575	1	480	4,600
2. Account Opening Disclosures (1026.6(b))	Disclosure (Mandatory)	Annual	575	1	720	6,900
3. Periodic Statements (1026.7(b))	Disclosure (Mandatory)	Monthly	575	12	480	55,200
4. Annual Statement of Billing Rights (1026.9(a)(1))	Disclosure (Mandatory)	Annual	575	1	480	4,600
5. Alternative Summary Statement of Billing Rights (1026.9(a)(2)).	Disclosure (Voluntary)	Monthly	575	12	480	55,200
6. Change in Terms Disclosures (1026.9(b) through (h))	Disclosure (Mandatory)	Annual	575	1	480	4,600
○ Credit and Charge Card Provisions						
7. Timely Settlement of Estate Debts (1026.11(c)(2))	Disclosure (Mandatory)	On occasion	575	52*	5	2,495
8. Ability to Pay (1026.51)	Recordkeeping (Mandatory).	Annual	575	1	720	6,900
9. College Student Credit Annual Report (1026.57(d))	Reporting (Mandatory)	Annual	575	1	480	4,600
10. Submission of Credit Card Agreements (1026.58(c))	Reporting (Mandatory)	Quarterly	575	4	180	6,900
11. Internet Posting of Credit Card Agreements (1026.58(d))	Disclosure (Mandatory)	Quarterly	575	4	360	13,800
12. Individual Credit Card Agreements (1026.58(e))	Disclosure (Mandatory)	On occasion	575	12*	15	1,788

SUMMARY OF ESTIMATED ANNUAL ONGOING BURDEN—Continued
[OMB No. 3064–0082]

IC description	Type of burden (obligation to respond)	Frequency of response	Number of respondents	Number of responses/ respondent	Estimated time per response (minutes)	Annual burden (hours)
• Home Equity Open-End Credit Plans (HELOC)						
○ General Disclosure Rules for HELOC's						
13. Application Disclosures (1026.40)	Disclosure (Mandatory)	Annual	2,362	1	720	28,344
14. Account Opening Disclosures (1026.6(a))	Disclosure (Mandatory)	Annual	2,362	1	720	28,344
15. Periodic Statements (1026.7(a))	Disclosure (Mandatory)	Annual	2,362	1	480	18,896
16. Annual Statement of Billing Rights (1026.9(a)(1))	Disclosure (Mandatory)	Annual	2,362	1	480	18,896
17. Alternative Summary Statement of Billing Rights (1026.9(a)(2)).	Disclosure (Voluntary)	Annual	2,362	1	480	18,896
18. Change in Terms Disclosures (1026.9(b) through (h))	Disclosure (Mandatory)	Annual	2,362	1	480	18,896
19. Notice to Restrict Credit (1026.9(c)(1)(iii); .40(f)(3)(i) and (vi)).	Disclosure (Mandatory)	Annual	2,362	1	120	4,724
• All Open-End Credit Plans						
20. Error Resolution (1026.13)	Disclosure (Mandatory)	On occasion	2,442	688 *	1	28,004
Closed-End Credit Products						
• General Rules for Closed-End Credit						
21. Other than Real Estate, Home-Secured and Private Education Loans (1026.17 and .18).	Disclosure (Mandatory)	Annual	2,850	1	720	34,200
• Closed-End Mortgages						
○ Application and Consummation						
22. Loan Estimate (1026.19(e); and .37)	Disclosure (Mandatory)	Annual	3,119	1	480	24,952
23. Closing Disclosure (1026.19(f); and .38)	Disclosure (Mandatory)	Annual	3,119	1	480	24,952
24. Record Retention of Disclosures (1026.19(e), (f); .37; and .38).	Recordkeeping (Mandatory).	Annual	3,119	1	18	936
○ Post-Consummation Disclosures						
25. Interest Rate and Payment Summary (1026.18(s))	Disclosure (Mandatory)	Annual	3,119	1	2,400	124,760
26. No Guarantee to Refinance Statement (1026.18(t))	Disclosure (Mandatory)	Annual	3,119	1	480	24,952
27. ARMs Rate Adjustments with Payment Change Disclosures (1026.20(c)).	Disclosure (Mandatory)	Annual	3,119	1	90	4,679
28. Initial Rate Adjustment Disclosure for ARMs (1026.20(d)).	Disclosure (Mandatory)	Annual	3,119	1	120	6,238
29. Escrow Cancellation Notice (1026.20(e))	Disclosure (Mandatory)	Annual	3,119	1	480	24,952
30. Periodic Statements (1026.41)	Disclosure (Mandatory)	Annual	3,119	1	480	24,952
○ Ability to Repay Requirements						
31. Minimum Standards (1026.43(c) through (f))	Recordkeeping (Mandatory).	On occasion	3,119	1,005 *	15	783,797
32. Prepayment Penalties (1026.43(g))	Disclosure (Mandatory)	On occasion	3,119	23*	12	14,260
Mortgage Products (Open and Closed-End)						
• Mortgage Servicing Disclosures						
○ Payoff Statements						
33. Payoff Statements (1026.36(c)(3))	Disclosure (Mandatory)	Annual	3,128	1	480	25,024
○ Notice of Sale or Transfer						
34. Notice of Sale or Transfer (1026.39)	Disclosure (Mandatory)	Annual	3,128	1	480	25,024
• Valuation Independence						
○ Mandatory Reporting						
35. Reporting Appraiser Noncompliance (1026.42(g))	Reporting (Mandatory)	On occasion	3,128	1 *	10	521
Reverse and High-Cost Mortgages						
• Reverse Mortgages						
○ Reverse Mortgage Disclosures						
36. Reverse Mortgage Disclosures (1026.31(c)(2) and .33)	Disclosure (Mandatory)	Annual	6	1	1,440	144
• High-Cost Mortgage Loans						
○ HOEPA Disclosures and Notice						
37. HOEPA Disclosures and Notice (1026.32(c)	Disclosure (Mandatory)	Annual	3,119	1	14	728

SUMMARY OF ESTIMATED ANNUAL ONGOING BURDEN—Continued
[OMB No. 3064–0082]

IC description	Type of burden (obligation to respond)	Frequency of response	Number of respondents	Number of responses/ respondent	Estimated time per response (minutes)	Annual burden (hours)
Private Education Loans • Initial Disclosures ○ Application and Solicitation Disclosures						
38. Application or Solicitation Disclosures (1026.47(a))	Disclosure (Mandatory)	Annual	3,061	1	3,600	183,660
○ Approval Disclosures						
39. Approval Disclosures (1026.47(b))	Disclosure (Mandatory)	Annual	3,061	1	3,600	183,660
○ Final Disclosures						
40. Final Disclosures (1026.47(c))	Disclosure (Mandatory)	Annual	3,061	1	3,600	183,660
Advertising Rules • All Credit Types ○ Open-End Credit						
41. Open-End Credit (1026.16)	Disclosure (Mandatory)	Annual	2,442	1*	20	814
○ Closed-End Credit						
42. Closed-End Credit (1026.24)	Disclosure (Mandatory)	Annual	3,152	1*	20	1,051
Record Retention • Evidence of Compliance						
43. Regulation Z in General (1026.25)	Recordkeeping (Mandatory).	Annual	3,152	1	18	946
Total Annual Ongoing Burden Hours						2,031,443

Source: FDIC.
** The average number of responses for this IC is based on the average number of credit accounts held at the respondent IDIs.*

General Description of the Collection: Consumer Financial Protection Bureau (CFPB) Regulation Z—12 CFR 1026 implements the Truth in Lending Act (15 U.S.C. 1601, *et seq.*) and certain provisions of the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*). This regulation prescribes uniform methods for computing the cost of credit, the disclosure of credit terms and costs, the resolution of errors and imposes various other recordkeeping, reporting and disclosure requirements. The FDIC has enforcement authority on the requirements of the CFPB's Regulation over the financial institutions it supervises. This information collection captures the recordkeeping, reporting and disclosure burdens of Regulation Z on FDIC-supervised institutions. To arrive at the estimated annual burden the FDIC assessed the number of potential respondents to the information collection by identifying the number of FDIC-supervised institutions who reported activity that would be within the scope of the information collection requirements according to data from the most recent Call Report. Additionally, the FDIC estimated the frequency of responses to the recordkeeping, reporting, or disclosure requirements by assessing the dollar volume of activity that would be within the scope of the information collection. In some instances the FDIC used information provided by other sources to estimate the magnitude and scope of activity attributable to FDIC-supervised institutions when more immediate information sources did not exist. There is no change in the substance or methodology of this information collection. The reduction in total estimated annual burden from 2,395,630 hours to 2,031,731 hours is solely attributable to agency estimates driven by economic fluctuations.

2. *Title:* Account Based Disclosures in Connection with Consumer Financial Protection Bureau Regulations E and DD and Federal Reserve Regulation CC.

OMB Control Number: 3064–0084.

Form Number: None.

Affected Public: FDIC-supervised institutions.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN FOR REGULATION E
[OMB No. 3064–0084]

	Type of burden (obligation to respond)	Estimated number of respondents	Estimated number of responses/ respondent	Estimated time per response (hours)	Total annual estimated burden (hours)
Regulation E—12 CFR Part 1005 Initial disclosures					
1. General (1005.7(b))	Disclosure (Mandatory)	3,172	83	0.025	6,582
2. Payroll cards (1005.18(c)(1))	Disclosure (Mandatory)	8	5,000	0.025	1,000
3. Change in terms (1005.8(a))	Disclosure (Mandatory)	3,172	113	0.017	6,093

SUMMARY OF ANNUAL BURDEN FOR REGULATION E—Continued
[OMB No. 3064–0084]

	Type of burden (obligation to respond)	Estimated number of respondents	Estimated number of responses/ respondent	Estimated time per response (hours)	Total annual estimated burden (hours)
Error resolution rules					
4. General (1005.8(b) and 1005.11)	Disclosure (Mandatory)	3,172	3	0.5	4,758
5. Payroll cards (1005.18)	Disclosure (Mandatory)	8	8	0.5	32
Prepaid Accounts Rule (1005.18)—New Products					
6. Short Form Disclosure (1005.18(b)(2) and 100.515(c).	Disclosure (Mandatory)	4	53	40	8,480
7. Long Form Disclosure 1005.18(b)(4) and 1005.15(c).	Disclosure (Mandatory)	4	53	8	1,696
Prepaid Accounts Rule (1005.18)—Implementation					
8. Short Form Additional Fee Type Disclosure (1005.18(b)(2)(ix) implementation.	Disclosure (Mandatory)	1	1	4	4
9. Access to Prepaid Account Information 1005.18(c)(5) and 1005.15(d) implementation.	Recordkeeping (Mandatory)	1	1	24	24
10. Error Resolution 1005.18(e)(2) and 1005.1511 implementation.	Recordkeeping (Mandatory)	1	1	8	8
11. Submission of Agreements (1005.19)(b) implementation.	Reporting (Mandatory)	1	1	1	1
Prepaid Accounts Rule—Ongoing					
12. Short Form Additional Fee Type Disclosure (1005.18(b)(2)(ix) ongoing.	Disclosure (Mandatory)	15	1	.5	8
13. Access to Prepaid Account Information 1005.18(c)(5) and 1005.15(d) ongoing.	Recordkeeping (Mandatory)	15	1	.5	8
14. Error Resolution (1005.18 (e)(2) and 1055.11 ongoing.	Recordkeeping (Mandatory)	15	1	.5	8
15. Submission of Agreements (1005.19(b) ongoing.	Reporting (Mandatory)	15	1	.5	8
Gift card/gift certificate (section 1005.20, FRB R–1377)—Implementation					
16. Exclusion policies & procedures (1005.20(b)(2)) implementation.	Recordkeeping (Mandatory)	1	1	40	40
17. Policy & procedures (1005.20(e)(1)) implementation.	Recordkeeping (Mandatory)	1	1	40	40
Gift card/gift certificate (section 1005.20, FRB R–1377)—Ongoing					
18. Exclusion policies & procedures (1005.20(b)(2) ongoing.	Recordkeeping (Mandatory)	10	1	8	80
19. Policy & procedures (1005.20(e)(1)) ongoing	Recordkeeping (Mandatory)	10	1	8	80
Subtotal Regulation E Burden					28,950

Source: *FDIC.*

SUMMARY OF ANNUAL BURDEN FOR REGULATION DD
[OMB No. 3064–0084]

	Type of burden (obligation to respond)	Estimated number of respondents	Estimated number of responses/ respondent	Estimated time per response (hours)	Total annual estimated burden (hours)
Regulation DD—12 CFR Part 1030					
1. Account disclosures (upon request and new accounts) (section 1030.4).	Disclosure (Mandatory)	3,172	170	0.025	13,481
Subsequent notices (section 1030.5)					
2. Change in terms	Disclosure (Mandatory)	3,172	380	0.017	20,491
3. Prematurity (renewal) notices to consumers	Disclosure (Mandatory)	3,172	340	0.017	18,334
4. Disclosures on periodic statements (section 1030.6).	Disclosure (Mandatory)	3,172	12	4	152,256
5. Advertising (section 1030.8)	Disclosure (Mandatory)	3,172	12	0.5	19,032
Subtotal Regulation DD Burden					223,594

Source: *FDIC.*

SUMMARY OF ANNUAL BURDEN FOR REGULATION CC
[OMB No. 3064–0084]

	Type of burden (obligation to respond)	Estimated number of respondents	Estimated number of responses/ respondent	Estimated time per response (hours)	Total annual estimated burden (hours)
Regulation CC—12 CFR Part 229					
1. Specific availability policy disclosure (initial notice to consumers, upon request, upon change in policy) (sections 229.16, 229.17 and 229.18(d)).	Disclosure (Mandatory)	3,227	140	0.017	7680
2. Case-by-case hold notice to consumers (section 229.16(c)).	Disclosure (Mandatory)	3,227	717	0.05	115688
3. Notice of exceptions to hold policy (section 229.13(g)).	Disclosure (Mandatory)	3,227	247	0.05	39853
4. Notice posted where consumers make deposits (including at ATMs)[4](sections 229.18(b) and 229.18(c)).	Disclosure (Mandatory)	3,227	1	0.25	807
5. Notice to consumers of changes in policy (section 229.18(e)).	Disclosure (Mandatory)	3,227	170	0.017	9,326
6. Annual notice of new ATMs (section 229.18(e))	Disclosure (Mandatory)	3,227	1	5	16,135
7. Notice of nonpayment—notice to depositary bank (section 229.33(a) and (d)).	Disclosure (Mandatory)	3,227	2,211	0.017	121,293
8. Response to consumer's re-credit claim (validation, denial, reversal) (section 229.54(e)).	Disclosure (Mandatory)	3,227	12	0.25	9,681
9. Bank's claim against an indemnifying bank (section 229.55).	Reporting (Mandatory)	3,227	5	0.25	4,034
10. Consumer awareness disclosure (section 229.57).	Disclosure (Mandatory)	3,227	170	0.017	9,326
11. Reg CC Consumer Burden—Expedited re-credit claim notice (section 229.54(a) and (b)(2)).	Reporting (Mandatory)	3,227	8	0.25	6,454
Subtotal Regulation CC Burden					340, 277

Source: *FDIC.*

SUMMARY OF TOTAL ESTIMATED ANNUAL BURDEN
[OMB No. 3064–0084]

	Total annual estimated burden (hours)
Subtotal Regulation E	28,950
Subtotal Regulation DD	223,594
Subtotal Regulation CC	340,277
Total Estimated Annual Burden	592,821

Source: *FDIC.*

General Description of Collection: Regulations E & DD (Consumer Financial Protection Bureau's Regulations) and Regulation CC (the Federal Reserve Board's Regulation) ensure adequate disclosures regarding accounts, including electronic fund transfer services, availability of funds, and fees and annual percentage yield for deposit accounts. Generally, the Regulation E disclosures are designed to ensure consumers receive adequate disclosure of basic terms, costs, and rights relating to electronic fund transfer (EFT) services provided to them so that they can make informed decisions. Institutions offering EFT services must disclose to consumers certain information, including: Initial and updated EFT terms, transaction information, the consumer's potential liability for unauthorized transfers, and error resolution rights and procedures.

Like Regulation E, Regulation CC has consumer protection disclosure requirements. Specifically, Regulation CC requires depository institutions to make funds deposited in transaction accounts available within specified time periods, disclose their availability policies to customers, and begin accruing interest on such deposits promptly. The disclosures are intended to alert customers that their ability to use deposited funds may be delayed, prevent unintentional (and costly) overdrafts, and allow customers to compare the policies of different institutions before deciding at which institution to deposit funds. Depository institutions must also provide an awareness disclosure regarding substitute checks. The regulation also requires notice to the depositary bank and to a customer of nonpayment of a check. Regulation DD also has similar consumer protection disclosure requirements that are intended to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield, and other account terms.

Regulation DD requires depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods. It also contains rules about advertising deposit accounts.

There is no change in the method or substance of the collection. The overall reduction in burden hours is partly the result of economic fluctuation and the reduced number of FDIC-supervised institutions. The primary reason for the overall reduction in total estimated annual burden for this information collection from 2,946,887 hours to 592,821 hours is due to the recognition that a group items in the currently-approved information collection related to overdraft opt-in disclosures should be treated as one-time burdens and no longer present a burden for FDIC-supervised institutions. These items made up 2.3 million hours of the burden in currently approved information collection. The treatment of these items as representing no ongoing burden is consistent with the Federal Reserve Board's burden treatment in their current information collection request.[1]

[1] OMB Control Number 7100–0271.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 18th day of May 2021.

Federal Deposit Insurance Corporation

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2021–10754 Filed 5–20–21; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–ZA25

Request for Information and Comment on Digital Assets

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Request for information and comment.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is gathering information and soliciting comments from interested parties regarding insured depository institutions' (IDIs') current and potential activities related to digital assets. The FDIC is interested in receiving input on current and potential digital asset use cases involving IDIs and their affiliates.

DATES: Comments must be received by July 16, 2021.

ADDRESSES: Commenters are encouraged to use the title ''*Request for Information and Comment on Digital Assets (RIN 3064–ZA25)*'' and to identify the number of the specific question(s) for comment to which they are responding. Please send comments by one method only directed to:

- *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–ZA25 in the subject line of the message.
- *Mail:* James P. Sheesley, Assistant Executive Secretary, Attention: Comments-RIN 3064–ZA25, 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., ET.

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.

FOR FURTHER INFORMATION CONTACT: Rae-Ann Miller, Senior Deputy Director, Supervisory Examinations and Policy, Division of Risk Management Supervision, (202) 898–3898, *rmiller@fdic.gov;* Jonathan Miller, Deputy Director, Division of Depositor and Consumer Protection, 202–898–3587, *jonmiller@fdic.gov;* or C. Chris Ledoux, Corporate Expert, Financial Innovation and Technology Group, Legal Division, 202–898–3535, *cledoux@fdic.gov.*

SUPPLEMENTARY INFORMATION:

Background Information

FDIC Overview

The FDIC is an independent agency created by the Congress to maintain stability and public confidence in the nation's financial system. The FDIC works to maintain the strength of the U.S. financial sector through effective supervision of regulated financial institutions, consumer protection, the resolution of failed financial institutions, and the provision of deposit insurance.[1] In its capacity as a federal banking regulator and deposit insurer, among other functions, the FDIC examines and supervises institutions' safe and sound operations and compliance with laws and regulations, evaluates resolution plans of large financial institutions, maintains the Deposit Insurance Fund (DIF), and resolves failed IDIs.[2] Collectively, the FDIC's activities support a safe-and-sound banking sector and contribute to the stability of and public confidence in the U.S. financial system as a whole.

In addition to its individual responsibilities, the FDIC works cooperatively with its fellow state and federal banking regulators to strengthen the banking sector and the U.S. financial system, including through a number of interagency formal structures, joint rule making and examinations.

Current and Potential Digital Assets Use Cases

One area of new technology and innovation surrounds the use of digital assets in financial markets and intermediation, as well as with settlement and payment systems. Banks are increasingly exploring several roles in the emerging digital asset ecosystem, such as being custodians, reserve holders, issuers, and exchange or redemption agents; performing node functions; and holding digital asset issuers' money deposits.

Digital asset use cases and related activities may fall into one or more broad categories:

- Technology solutions, such as those involving closed and open payment systems, other token-based systems for banking activities other than payments (*e.g.,* lending), and acting as nodes in networks (*e.g.,* distributed ledgers).
- Asset-based activities, such as investments, collateral, margin lending and liquidity facilities.
- Liability-based activities, such as deposit services and where deposits serve as digital asset reserves.
- Custodial activities, such as providing digital asset safekeeping and related services, such as secondary lending, as well as acting as a qualified custodian on behalf of investment advisors.
- Other activity that does not align with the others above. Examples could include market-making and decentralized financing.

Request for Comment

The FDIC recognizes that there are novel and unique considerations related to digital assets, and this RFI is intended to help inform the FDIC's understanding in this area. The FDIC is seeking input on current and potential use cases involving IDIs and their affiliates and

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[1] As of December 31, 2020, the FDIC insured 5,001 insured commercial banks and savings institutions. The FDIC is the primary federal regulator of state-chartered banks and savings associations that are not members of the Federal Reserve System. As of December 31, 2020, the FDIC supervised approximately 3,221 banks and savings associations. The FDIC also has a back-up supervision and examination role with respect to insured depository institutions for which the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System are the primary federal regulators. *See https://www.fdic.gov/bank/analytical/qbp/2020dec/.*

[2] ''Insured depository institution'' means any bank or savings association the deposits of which are insured by the FDIC pursuant to the Federal Deposit Insurance Act (FDI Act). *See* 12 U.S.C. 1813(c).

risk and compliance management in conducting such activities.

Questions Regarding Current and Potential Use Cases

1. In addition to the broad categories of digital assets and related activities described above, are there any additional or alternative categories or subcategories that IDIs are engaged in or exploring?

2. What, if any, activities or use cases related to digital assets are IDIs currently engaging in or considering? Please explain, including the nature and scope of the activity. More specifically:

a. What, if any, types of specific products or services related to digital assets are IDIs currently offering or considering offering to consumers?

b. To what extent are IDIs engaging in or considering engaging in activities or providing services related to digital assets that are custodial in nature, and what are the scope of those activities? To what extent are such IDIs engaging in or considering secondary lending?

c. To what extent are IDIs engaging in or considering activities or providing services related to digital assets that have direct balance sheet impacts?

d. To what extent are IDIs engaging in or considering activities related to digital assets for other purposes, such as to facilitate internal operations?

3. In terms of the marketplace, where do IDIs see the greatest demand for digital asset-related services, and who are the largest drivers for such services?

Questions Regarding Risk and Compliance Management

4. To what extent are IDIs' existing risk and compliance management frameworks designed to identify, measure, monitor, and control risks associated with the various digital asset use cases? Do some use cases more easily align with existing risk and compliance management frameworks compared to others? Do, or would, some use cases result in IDIs developing entirely new or materially different risk and compliance management frameworks?

5. What unique or particular risks are challenging to measure, monitor, and control for the various digital asset use cases? What unique controls or processes are or could be implemented to address such risks?

6. What unique benefits to operations do IDIs consider as they analyze various digital asset use cases?

7. How are IDIs integrating, or how would IDIs integrate, operations related to digital assets with legacy banking systems?

8. Please identify any potential benefits, and any unique risks, of particular digital asset product offerings or services to IDI customers.

9. How are IDIs integrating these new technologies into their existing cybersecurity functions?

Questions Regarding Supervision and Activities

10. Are there any unique aspects of digital asset activities that the FDIC should take into account from a supervisory perspective?

11. Are there any areas in which the FDIC should clarify or expand existing supervisory guidance to address digital asset activities?

12. In what ways, if any, does custody of digital assets differ from custody of traditional assets?

13. FDIC's part 362 application procedures may apply to certain digital asset activities or investments.[3] Is additional clarity needed? Would any changes to FDIC's regulations or the related application filing procedures be helpful in addressing uncertainty surrounding the permissibility of particular types of digital asset-related activity, in order to support IDIs considering or engaging in such activities?

Questions Regarding Deposit Insurance and Resolution

14. Are there any steps the FDIC should consider to ensure customers can distinguish between uninsured digital asset products on the one hand, and insured deposits on the other?

15. Are there distinctions or similarities between fiat-backed stablecoins and stored value products where the underlying funds are held at IDIs and for which pass-through deposit insurance may be available?

16. If the FDIC were to encounter any of the digital assets use cases in the resolution process or in a receivership capacity, what complexities might be encountered in valuing, marketing, transferring, operating, or resolving the digital asset activity? What actions should be considered to overcome the complexities?

Additional Considerations

17. Comments are invited to address any other digital asset-related information stakeholders seek to bring to the FDIC's attention. Comments are also welcome about the digital asset-related activities of uninsured banks and nonbanks.

Federal Deposit Insurance Corporation.

[3] *See* 12 CFR part 362, subpart A.

Dated at Washington, DC, on May 17, 2021.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2021–10772 Filed 5–20–21; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

[NOTICE 2021–10]

Filing Dates for the Texas Special Election in the 6th Congressional District Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Texas has scheduled a Special Runoff Election on July 27, 2021, to fill its U.S. House of Representatives seat in the 6th Congressional District of the late Representative Ron Wright. On May 1, 2021, a Special General Election was held, with no candidate achieving a majority vote. Under Texas law, a Special Runoff Election will now be held between the top two vote-getters. Committees participating in the Texas Special Runoff Election are required to file pre- and post-runoff 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 Texas Special Runoff Election shall file a 12-day Pre-Runoff Report on July 15, 2021, and a 30-day Post-Runoff Report on August 26, 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 Texas Special Runoff Election 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 Texas Special Runoff Election will continue to file

according to the monthly reporting schedule.

Additional disclosure information for the Texas 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 election 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 period. (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 TEXAS SPECIAL ELECTION

Report	Close of books [1]	Reg./cert. & overnight mailing deadline	Filing deadline
Campaign Committees Involved in the Special Runoff (07/27/2021) Must File			
July Quarterly		—WAIVED—	
Pre-Runoff	07/07/2021	07/12/2021	07/15/2021
Post-Runoff	08/16/2021	08/26/2021	08/26/2021
October Quarterly	09/30/2021	10/15/2021	10/15/2021
PACS and Party Committees Not Filing Monthly Involved in the Special Runoff (07/27/2021) Must File			
Pre-Runoff & Mid-Year [2]	07/07/2021	07/12/2021	07/15/2021
Post-Runoff	08/16/2021	08/26/2021	08/26/2021
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] Committees should file a consolidated Pre-Runoff & Mid-Year Report by the filing deadline of the Pre-Runoff Report.

Dated: May 18, 2021.

On behalf of the Commission,

Shana M. Broussard,

Chair, Federal Election Commission.

[FR Doc. 2021–10777 Filed 5–20–21; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2021–N–6]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: Federal Home Loan Bank Directors—30-day notice of submission of information collection for approval from Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA or the Agency) is seeking public comments concerning an information collection known as ''Federal Home Loan Bank Directors,'' which has been assigned control number 2590–0006 by the Office of Management and Budget (OMB). FHFA intends to submit the information collection to OMB for review and approval of a three-year extension of the control number, which expired on February 28, 2021.

DATES: Interested persons may submit comments on or before June 21, 2021.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: (202) 395–3047, Email: *OIRA_submission@omb.eop.gov.* Please also submit comments to FHFA, identified by ''Proposed Collection; Comment Request: 'Federal Home Loan Bank Directors, (No. 2021–N–6)' '' by any of the following methods:

- *Agency Website: www.fhfa.gov/open-for-comment-or-input.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal,* please also send it by *email* to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Eighth Floor, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: ''Federal Home Loan Bank Directors, (No. 2021–N–6).''

We will post all public comments we receive without change, including any personal information you provide, such as your name and address, email address, and telephone number, on the FHFA website at *http://www.fhfa.gov.* In addition, copies of all comments received will be available for examination by the public through the electronic comment docket for this PRA Notice also located on the FHFA website.

FOR FURTHER INFORMATION CONTACT: Vickie Olafson, Assistant General Counsel, *Vickie.Olafson@fhfa.gov,* (202) 649–3025; or Angela Supervielle, Counsel, *Angela.Supervielle@fhfa.gov,* (202) 649–3973 (these are not toll-free numbers); Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of the Information Collection

Section 7 of the Federal Home Loan Bank Act (Bank Act) vests the management of each Federal Home Loan Bank (Bank) in its board of directors.[1] As required by section 7, each Bank's board comprises two types of directors: (1) Member directors, who are drawn from the officers and directors of member institutions located in the Bank's district and who are elected to represent members in a particular state in that district; and (2) independent directors, who are unaffiliated with any

[1] *See* 12 U.S.C. 1427(a)(1).

of the Bank's member institutions, but who reside in the Bank's district and are elected on an at-large basis.[2] Both types of directors serve four-year terms, which are staggered so that approximately one-quarter of a Bank's total directorships are up for election every year.[3] Section 7 and FHFA's implementing regulation, codified at 12 CFR part 1261, establish the eligibility requirements for both types of Bank directors and the professional qualifications for independent directors, and set forth the procedures for their election.

Part 1261 requires that each Bank administer its own annual director election process. As part of this process, a Bank must require each nominee for both types of directorship, including any incumbent that may be a candidate for re-election, to complete and return to the Bank a form that solicits information about the candidate's statutory eligibility to serve and, in the case of independent director candidates, about his or her professional qualifications for the directorship being sought.[4] Specifically, member director candidates are required to complete the *Federal Home Loan Bank Member Director Eligibility Certification Form (Member Director Eligibility Certification Form),* while independent director candidates must complete the *Federal Home Loan Bank Independent Director Application Form (Independent Director Application Form).* Each Bank must also require all of its incumbent directors to certify annually that they continue to meet all eligibility requirements.[5] Member directors do this by completing the *Member Director Eligibility Certification Form* again every year, while independent directors complete the abbreviated *Federal Home Loan Bank Independent Director Annual Certification Form (Independent Director Annual Certification Form)* to certify their ongoing eligibility.

The Banks use the information collection contained in the *Independent Director Application Form* and part 1261 to determine whether individuals who wish to stand for election or re-election as independent directors satisfy the statutory eligibility requirements and possess the professional qualifications required under the statute and regulations. Only individuals meeting those requirements and qualifications may serve as an independent director.[6] On an annual basis, the Banks use the information collection contained in the *Independent Director Annual Certification Form* and part 1261 to determine whether their incumbent independent directors continue to meet the statutory eligibility requirements. The Banks use the information collection contained in the *Member Director Eligibility Certification Form* and part 1261 to determine whether individuals who wish to stand for election or re-election as member directors satisfy the statutory eligibility requirements. Only individuals meeting these requirements may serve as a member director.[7] On an annual basis, the Banks also use the information collection contained in the *Member Director Eligibility Certification Form* and part 1261 to determine whether their incumbent member directors continue to meet the statutory eligibility requirements.

The OMB control number for this information collection is 2590–0006. The current clearance for the information collection expired on February 28, 2021. The likely respondents are individuals who are prospective and incumbent Bank directors.

B. Revisions to the Bank Director Forms

In advance of the 2021 Bank director election cycle, FHFA has revised each of the three Bank Director Application and Certification forms, all of which have existed in substantially their current form since the current statutory requirements for Bank directors were adopted in 2008.

The *Independent Director Application Form,* by far the longest of the three forms and requiring a number of essay-type answers, is completed by all independent directorship nominees, including incumbents seeking re-nomination. The information requested on the form is designed to confirm that the nominee is legally eligible to serve as an independent director, has the required professional qualifications for the type of independent directorship being sought, and is of high personal integrity and to identify any potential conflicts of interest of which the Bank should be aware. The revisions tie the questions more closely to statutory and regulatory requirements, provide more structured answer choices so as to ensure responses are relevant, solicit more comprehensive information on issues about which the Bank must weigh facts to make a legal judgment about the nominee's eligibility, and generally streamline the questions. The revisions should allow nominees to complete the form more quickly by providing preset answer choices for many questions, permitting attachments in answer to certain questions, and eliminating some superfluous questions. FHFA estimates that, in addition to encouraging more accurate and complete answers, the revisions will reduce the amount of time it takes a nominee to complete the form from three to two hours.

The *Independent Director Annual Certification Form* is completed by incumbent independent directors annually to certify that they remain legally eligible to serve. The prior form provided independent directors with the option merely to check a box stating that ''no changes have occurred'' with respect to the director's compliance with the statutory eligibility requirements. In the Agency's view, providing this option resulted in some independent directors overlooking changes in residence or employment that might have rendered them ineligible to continue to serve. The revised form requires independent directors to provide current information on residence and employment to allow the Bank to determine whether there may be new information leading to eligibility concerns.

The *Member Director Eligibility Certification Form* is completed both by nominees running for a member directorship and annually by incumbent member directors to certify their continuing eligibility. The form is intended to confirm that member directors and member directorship nominees are legally eligible to serve in the directorship positions they occupy or are seeking. Although some questions on the form have been revised to provide preset answers, the substance of the questions on the revised form remain essentially the same as those on the prior form. The *Member Director Eligibility Certification Form* was most recently revised in August 2020 to remove a notarization requirement (neither of the other two Bank director forms had such a requirement).

The revised questions, including preset answer selections, and instructions for each of the Bank director forms appear at the end of this notice. The final formatting of the revised forms is currently in process.

C. Burden Estimate

FHFA estimates the total annual hour burden imposed upon respondents by the three Bank director forms comprising this information collection to be 119 hours (39 hours + 50 hours + 30 hours = 119 hours, as detailed below).

[2] *See* 12 U.S.C. 1427(a)(4), (b), and (d).

[3] *See* 12 U.S.C. 1427(d).

[4] *See* 12 CFR 1261.7(c) and (f); 12 CFR 1261.14(b).

[5] *See* 12 CFR 1261.12.

[6] *See* 12 U.S.C. 1427(a)(3).

[7] *See* 12 U.S.C. 1427(a)(3) and (b)(1).

The Agency estimates the total annual hour burden on all member director candidates and incumbent member directors associated with review and completion of the *Member Director Eligibility Certification Form* to be 39 hours. This includes a total annual average of 72 member director nominees (24 open seats per year with three nominees for each) completing the form as an application, with 1 response per nominee taking an average of 15 minutes (.25 hours) (72 respondents × .25 hours = 18 hours). It also includes a total annual average of 84 incumbent member directors not up for election completing the form as an annual certification, with 1 response per individual taking an average of 15 minutes (.25 hours) (84 individuals × .25 hours = 21 hours).

The Agency estimates the total annual hour burden on all independent director candidates associated with review and completion of the *Independent Director Application Form* to be 50 hours. This includes a total annual average of 25 independent director candidates (22 open seats per year, plus three vacancies, with one nominee for each), with 1 response per individual taking an average of 2.0 hours (25 individuals × 2.0 hours = 50 hours).

The Agency estimates the total annual hour burden on all incumbent independent directors associated with review and completion of the *Independent Director Annual Certification Form* to be 30 hours. This includes a total annual average of 60 incumbent independent directors not up for election, with 1 response per individual taking an average of 30 minutes (.5 hours) (60 individuals × .5 hours = 30 hours).

D. Comments Request

In accordance with the requirements of 5 CFR 1320.8(d), FHFA published an initial notice and request for public comments regarding this information collection in the **Federal Register** on March 3, 2021.[8] The 60-day comment period closed on May 3, 2021. FHFA received two comment letters—one from the eleven Banks jointly and one from a trade association.

In their joint letter, the Banks made a number of suggestions regarding the rephrasing of questions and instructions on each of the forms for greater clarity and to better elicit pertinent information. FHFA has further revised the forms to incorporate most of those suggestions, some verbatim and others in essence. The Banks also requested that FHFA add more detail to the *Independent Director Application Form* questions and instructions regarding the Agency's interpretations of the statutory and regulatory independence requirements applying to independent directors and the qualifications requirements for public interest independent directors. FHFA has declined to make those revisions (although it has slightly modified the material on public interest director qualifications for greater clarity). Agency interpretations of statutory and regulatory requirements pertaining to Bank director eligibility are discussed in the forms only to the extent necessary to clarify the purpose of particular questions so as to better ensure the provision of accurate and relevant responses. The Bank director forms are not intended to serve as guidance documents.

The trade association's comment letter focused on FHFA's interpretations of the statutory qualifications requirements for public interest independent directors. Neither comment letter questioned the need for the information collection or addressed the Agency's burden estimates.

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) 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.

Kevin Smith,

Chief Information Officer, Federal Housing Finance Agency.

BILLING CODE 8070–01–P

[8] *See* 86 FR 12448 (Mar. 3, 2021).

FEDERAL HOME LOAN BANK MEMBER DIRECTOR ELIGIBILITY CERTIFICATION FORM (REVISED)

INSTRUCTIONS

This **Federal Home Loan Bank Member Director Eligibility Certification Form** must be completed by individuals wishing to accept a nomination to stand for election as a member director of the Federal Home Loan Bank of [TO BE COMPLETED BY EACH BANK] (Bank) or to be considered for appointment by the Bank's board to fill a member directorship that has become vacant. It must also be completed annually by each incumbent member director. Your responses to the questions on this Form will assist the Bank in verifying that you meet the eligibility requirements to serve as a member director.

You are eligible to serve as a member director of the Bank only if you meet all of the following requirements:

- You are a citizen of the United States;
- You are an officer or director of a member institution of the Bank:
  - That was a member of the Bank as of December 31, [PRIOR YEAR]; and
  - Whose voting state for purposes of Bank directorship elections is the state that is represented by the directorship for which you have been nominated; and
- Each member of the Bank for which you are an officer or director is in compliance with all of its applicable minimum capital requirements established by its primary regulator (this requirement does not apply in the case of any member for which you are an officer or director that does not have capital requirements established by a primary regulator, such as a non-depository community development financial institution).

These eligibility requirements may be found in sections 7(a) and (b) of the Federal Home Loan Bank Act, 12 U.S.C. 1427(a) and (b), and sections 1261.5(a) and (b) of the regulations of the Federal Housing Finance Agency, 12 CFR 1261.5(a) and (b).

Please follow the instructions below appropriate for the purpose for which you are completing this Form.

NOMINEES IN THE ANNUAL ELECTION CYCLE

If you have been nominated to stand for election as a member director of the Bank you must complete and execute this Form and submit it to the Bank on or before the date specified by the Bank to accept the nomination. If you do not submit a completed and executed Form by that date, you will be deemed to have declined the nomination. By law, the Bank may not permit a directorship nominee to stand for election unless it has verified that the nominee is legally eligible to serve in the directorship for which he or she has been nominated. Further, the Bank may neither declare elected any nominee nor seat any director-elect whom it has reason to know is ineligible to serve.

CANDIDATES TO FILL A VACANT MEMBER DIRECTORSHIP

If the Bank's board of directors is considering you as a candidate to fill the unexpired term of office of a vacant member directorship on the Bank's board, you must complete and execute this Form and return it to the Bank on or before the date specified by the Bank. If you fail to submit a completed and executed Form by that date, or if you submit a Form that does not adequately demonstrate that you meet all applicable eligibility requirements, the Bank may determine that you are ineligible to serve, in which case the Bank's board would be prohibited by law from electing you to fill the vacant directorship.

FEDERAL HOME LOAN BANK MEMBER DIRECTOR ELIGIBILITY CERTIFICATION FORM (REVISED)

By law, the Bank's board may not elect any person to fill a vacant directorship unless it has verified that the individual is legally eligible to serve in that directorship.

ANNUAL ELIGIBILITY CERTIFICATIONS BY INCUMBENT DIRECTORS

The Bank is required by law to solicit information from its incumbent directors annually to verify that each director remains in compliance with the applicable statutory and regulatory eligibility requirements. During each calendar year that you are an incumbent member director, you must complete and execute this Form and return it to the Bank on or before the date specified by the Bank. If you fail to submit a completed and executed Form by that date, or if you submit a Form that does not adequately demonstrate that you continue to meet all applicable eligibility requirements, the Bank may determine that you are ineligible to serve, in which case it would be required by law to declare your directorship vacant.

YOUR PERSONAL INFORMATION

Please provide your personal information as indicated in Questions 1 – 3.

1. *Full Name*:

2. *Other Names Currently or Formerly Used, or Known by*:

3. *Contact Information*:
   - Phone number (leave room for multiple; indicate home, office, or cell):
   - E-mail address:
   - Mailing address: Number/Street (or PO Box), City, State, Zip Code

ELIGIBILITY REQUIREMENTS

Please answer in full Questions 4 – 6, which pertain to your compliance with the statutory and regulatory eligibility requirements for member directors. You may continue your answers onto additional pages, if necessary, each of which shall be attached to, and deemed a part of, this Form.

4. *Citizenship.* Are you a citizen of the United States? ___ Yes ___ No

5. *Primary Member Affiliation.* Please provide the following information about the entity you serve as an officer or director that is a member of the Bank on whose board you serve or have been nominated to serve:
   - Name of the member:
   - FHFA ID number of the member:
   - Voting state in which the member is located:
   - Your title or position:
   - Your business address at the member:
   - Does this member comply with all applicable minimum capital requirements established by its primary regulator? ___ Yes ___ No ___ Not Applicable

FEDERAL HOME LOAN BANK MEMBER DIRECTOR ELIGIBILITY CERTIFICATION FORM (REVISED)

6. *Other Member Affiliations.* Please provide the following information about any other entity you serve as an officer or director that is a member of the Bank on whose board you serve or have been nominated to serve (if more than one, please provide the information on a separate sheet, which shall be deemed a part of this Form):

   A. Other than the member you listed in response to Question 5, do you serve as an officer or director of any other institution that is a member of this Bank? ___ Yes ___ No

   B. If you answered Yes to Question 6A, please provide the following information for each member of the Federal Home Loan Bank that you serve as an officer or director:

      - Name of the member:
      - FHFA ID number of the member:
      - Your title or position:
      - Does this member comply with all applicable minimum capital requirements established by its primary regulator?
        ___ Yes ___ No ___ Not Applicable

By executing this Form, you are certifying that the information you have provided is true, correct, and complete to the best of your knowledge and that you understand that you have a continuing obligation to inform the Bank of any facts that may call into question your eligibility or ability to serve as a Bank director. You further acknowledge that the Bank and the Federal Housing Finance Agency may perform a background check on you, including without limitation regarding any information disclosed herein.

Signature: **Dated:**

Privacy Act Statement: In accordance with the Privacy Act (5 U.S.C. 552a), the following notice is provided. This information is solicited under authority of 12 U.S.C. 1427(a) and (b) and 12 CFR 1261.5, 1261.7, and 1261.10 to 1261.13. Furnishing the information on this Form is voluntary, but failure to do so may result in your not meeting the statutory and regulatory eligibility requirements to serve as a Federal Home Loan Bank member director. The purpose of this information is to facilitate the timely determination of your eligibility to serve as a member director. Information may be disclosed in accordance with the routine uses identified in FHFA-System of Records Notice FHFA-8 Federal Home Loan Bank Directors, which may be found at https://www.fhfa.gov/AboutUs/FOIAPrivacy/Documents/SORNs/FHFA-8%20Federal%20Home%20Loan%20Bank%20Directors.pdf.

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OMB No. 2590-0006
Expires ##/##/20##

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR APPLICATION FORM (REVISED)

INSTRUCTIONS

You either have expressed interest in, or have been recommended for, nomination to stand for election as an independent director of the Federal Home Loan Bank of [TO BE COMPLETED BY EACH BANK] (Bank). **If you would like the Bank's board of directors to consider you as a possible nominee for an independent directorship, you must complete and execute this Federal Home Loan Bank Independent Director Application Form and submit it to the Bank on or before [DATE AT LEAST 30 DAYS AFTER BANKS PROVIDES ACCESS TO THE FORM].** If you do not submit a completed and executed Form by that date, you will be deemed to have declined to be considered for nomination.

By law, the Bank's board of directors may nominate you for an independent directorship only if it has verified that you meet the legal eligibility requirements applying to independent directors and possess the professional qualifications that are specified by law for the type of independent directorship for which you are being considered. Your responses to the questions on this Form will assist the Bank in verifying that you are legally eligible, and possess the required professional qualifications, to serve as an independent director of the Bank if elected.

You are eligible to serve as an independent director of the Bank only if you meet all of the following requirements:

- You are a citizen of the United States.
- You are a *bona fide* resident of the Bank District, as determined by meeting either one of the following two sets of criteria:
  - Your principal residence is located in the Bank District; or
  - You both:
    - Own or lease in your own name a residence in the Bank District; and
    - Are employed in a voting state in the Bank District.
- Neither you nor your spouse are:
  - An officer of any Federal Home Loan Bank; or
  - An officer, employee, or director of any member of, or recipient of advances from, the Bank. For purposes of this prohibition:
    - "Advances" includes any form of lending, regardless of whether it is denominated as an "advance"; and
    - "Member" and "recipient of advances" include the institution itself and the institution's holding company, except where the assets of all members or all recipients of advances constitute less than 35 percent of the assets of the holding company, on a consolidated basis.

These eligibility requirements may be found in sections 7(a) and (b) of the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1427(a) and (b), and in FHFA's regulations at 12 CFR 1261.5(c) and 1261.10.

In addition, you must demonstrate that you possess certain professional qualifications, which differ depending on whether you are seeking nomination for a "regular" or a "public interest" independent directorship. By law, the Bank must designate at least two of the independent directorships on its board as "public interest" directorships. These may be filled only by individuals having, at the time of

nomination, more than four (4) years of experience representing consumer or community interests in banking services, credit needs, housing, or consumer financial protections.

Regular independent directorships—that is, those that are not public interest directorships—must be filled by individuals having, at the time of nomination, experience in or knowledge of one or more of the following areas: auditing and accounting, derivatives, financial management, organizational management, project development, risk management practices, and the law. Such knowledge or experience must be commensurate with that needed to oversee a financial institution with a size and complexity comparable to that of the Bank. The requirements regarding professional qualifications may be found in section 7(a)(3)(B) of the Bank Act, 12 U.S.C. 1427(a)(3)(B), and in FHFA's regulations at 12 CFR 1261.7(e).

Please answer all applicable questions in full and do not answer any question by referring to another document, except where expressly permitted to do so. You may continue your answers onto additional pages, if necessary, each of which shall be attached to, and deemed a part of, this Form.

YOUR PERSONAL INFORMATION

Please provide your personal information as indicated in Questions 1 – 4.

1. ***Full Name:***

2. ***Other Names Currently or Formerly Used, or Known by:***

3. ***Contact Information:***
   - Phone number (leave room for multiple; indicate home, office, or cell):
   - E-mail address:
   - Mailing address: Number/Street (or PO Box), City, State, Zip Code

4. ***Current Employment, if Applicable:***
   - Current employer:
   - Your title or position:
   - Address of your place of employment: Number/Street, City, State, Zip Code

ELIGIBILITY REQUIREMENTS

Please answer Questions 5 – 8, regarding your eligibility to serve as an independent director, in full.

CITIZENSHIP AND RESIDENCY

You must meet the legal requirements as to U.S. citizenship and Bank District residency to be eligible for nomination for an independent directorship.

5. ***Citizenship.*** Are you a citizen of the United States? ___ Yes ___ No

6. ***Residency.***

   A. Do you own or lease a residence within the Bank District? ___ Yes ___ No

   If you answered No to Question 6A, you do not meet the residency requirement.

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR APPLICATION FORM (REVISED)

B. If you answered Yes to Question 6A, please provide the street address of your residence within the Bank District: (Number/Street, City, State, Zip Code)

C. Is the address provided in response to Question 6B your principal residence?
___ Yes ___ No

If you answered Yes to Question 6C, you meet the residency requirement.

If you answered No to Question 6C, you may still meet the residency requirement if you are employed within the Bank District. Please continue with Question 6D to indicate your in-District employment status.

D. Are you employed within the Bank District? ___ Yes ___ No

E. If you answered Yes to Question 6D, please identify your in-District employer:

- ___ Check if your in-District employment information is the same as that entered in response to Question 4.
- ___ Check if your in-District employment information is different from that entered in response to Question 4, then provide the following information:
  - Name of your in-District employer:
  - Your title or position:
  - Address of your place of employment: Number/Street, City, State, Zip Code

INDEPENDENCE

The information you provide below will enable the Bank to determine whether you meet the independence requirements. You may be nominated if you do not currently meet the independence requirements, but you must agree as part of the certification at the end of this Form that you and your spouse will relinquish any positions that the Bank determines to be prohibited under those requirements. If elected, you may not be seated as an independent director so long as you or your spouse hold any such prohibited positions and, once seated, would become ineligible to continue to serve as an independent director if you or your spouse were to take any such prohibited positions.

7. *Employment by a Federal Home Loan Bank.*

A. Are you or your spouse an officer or employee of any Federal Home Loan Bank?
___ Yes ___ No

B. If you answered Yes to Question 7A, please provide the following information for each such position held by you or your spouse:

- Name of the person holding the position:
- Federal Home Loan Bank of:
- Title or position:
- Dates held:

8. *Employment by a Bank Member, Housing Associate, or Holding Company.*

A. Are you or your spouse an officer, director, or employee of a member of the Bank, an entity certified as a housing associate of the Bank, or a holding company that controls one or more members or housing associates of the Bank? ___ Yes ___ No

B. If you answered Yes to Question 8A, please provide the following information for each such position held by you or your spouse:

- Name of the person holding the position:
- Name of the employer:
- Check the appropriate response below to indicate whether the employer is:
  - ___ a member
  - ___ a holding company of a member
  - ___ a housing associate
  - ___ a holding company of a housing associate
- Title or position:
- Dates held:
- If the employer is a holding company:
  - Indicate the total assets of the holding company;
  - Indicate the total assets of each member or housing associate of the Bank controlled by the holding company; and
  - Provide, or direct the Bank to, documentation to support those amounts.

ACADEMIC AND EMPLOYMENT HISTORY

Please answer in full Questions 9 - 11, regarding your academic and employment background. If you wish, you may answer any or all of these questions by attaching a resume or CV, so long as you provide all of the information requested. Any such attachments shall be deemed a part of this Form.

- ___ Check if you have attached a resume or CV in response to Questions 9 - 11.

9. *Academic Degrees.* Please list any college or advanced academic degrees that you have been awarded, specifying for each: the type of degree, the name and location of the academic institution that awarded your degree, and the date awarded.

10. *Employment History.* Please list, from most to least recent, the positions you have held during your professional career, specifying for each: the name and location of your employer, your position, and the date range (including month and year) during which you served in that position. Please explain any major gaps in your employment chronology.

11. *Other Relevant Experience and Achievements.* Please list any other significant positions you have held, or currently hold, (such as other directorships or volunteer positions) and any professional certifications that you believe are relevant to your qualifications to serve as an independent director of the Bank, specifying for each: the name and location of the organization with which you served, your position, and the date range during which you served in that position; for each certification, list the certification name, the certifying entity, and the date of your certification.

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR APPLICATION FORM (REVISED)

PROFESSIONAL QUALIFICATIONS

Please indicate in response to Question 12 whether you are seeking nomination for a public interest independent directorship or a regular independent directorship and then complete the appropriate questions regarding your qualifications for that type of independent directorship. If you wish to be considered for both types of independent directorships, or are unsure, please check both options. If you wish to be considered for a public interest independent directorship, you must answer Question 13 in full. If you wish to be considered for a regular independent directorship, you must answer Questions 14 – 15 in full. If you wish to be considered for only one type of independent directorship, you are not required to answer the question or questions pertaining to the other type, although you may choose to do so if you wish to highlight relevant knowledge or experience in the areas addressed in those questions.

12. *Type of Independent Directorship Being Sought.* Please check one of the boxes below to indicate the type of independent directorship you are seeking.
    - ___ Check if you are seeking a public interest independent directorship.
    - ___ Check if you are seeking a regular independent directorship.

PUBLIC INTEREST INDEPENDENT DIRECTORSHIP

By statute, a nominee for a public interest independent directorship must have "more than 4 years of experience in representing consumer or community interests on banking services, credit needs, housing, or consumer financial protections." Qualifying experience in one of the four enumerated areas may have been acquired in professional, public service, or volunteer positions, so long as the work done was substantial in terms of time commitment and responsibility. As indicated by the statute's use of the word "representing," the experience must have involved advocating for, or otherwise acting primarily for the direct benefit of, consumer or community interests in one of the four enumerated areas. Further, the experience must accrue from activities personally undertaken by the individual seeking nomination as a public interest independent director, as opposed to being attributed based solely on the activities of an organization with which the person was associated. Please reach out to the Bank if you have questions as to whether your experience meets the statutory requirements to qualify for service as a public interest independent director.

13. *Representation of Consumer and Community Interests.* Please explain in detail how you have represented consumer or community interests in banking services, credit needs, housing, or consumer financial protections for more than four years. At a minimum:
    - Identify the positions through which you obtained your qualifying experience and specify the dates during which you served in those positions.
    - Specify whether those positions involved banking services, credit needs, housing, or consumer financial protections.
    - To the extent that your experience was obtained with an organization or agency, describe generally the mission of each such organization or agency and the manner in which its mission is typically fulfilled.
    - Describe your responsibilities in those positions and, if any were not full-time paid employment, indicate the amount of time you spent fulfilling those responsibilities annually.

- Describe your major accomplishments in those positions that relate to the experience needed to qualify as a public interest independent director.

REGULAR INDEPENDENT DIRECTORSHIP

If you are seeking a regular independent directorship, please answer in full Questions 14 – 15, which pertain to your professional qualifications to serve in that capacity. If you are seeking a public interest independent directorship, you are not required to answer these questions, but may choose to do so if you possess relevant knowledge and experience that you wish to highlight.

14. *Primary Areas of Knowledge and Experience.* Please indicate below, by checking the appropriate boxes, the professional areas in which you have significant knowledge or experience that is commensurate with that needed to oversee a financial institution with a size and complexity comparable to that of the Bank.
    - ___ Auditing and accounting
    - ___ Derivatives
    - ___ Financial management
    - ___ Organizational management
    - ___ Project development
    - ___ Risk management practices
    - ___ The law

15. *Description of Knowledge and Experience.* For each of your primary areas of professional knowledge and experience indicated in response to Question 14, please describe in detail the nature of that knowledge and experience and the circumstances under which you obtained it. At a minimum, for each area:
    - Identify the entities with which you were employed or otherwise associated when you gained the knowledge or experience and describe briefly the business or mission of those entities (*e.g.*, "investment bank," "law firm," etc.).
    - Identify the positions you have held with those entities and describe your major accomplishments in those positions with respect to the relevant areas.

OTHER MATTERS

16. *Personal Integrity.* Is there anything in your background that might cause a reasonable person to question your personal integrity, your ability to fulfill the fiduciary duties of a board director, or your competence to supervise the management of the Bank (issues of concern could include, but are not limited to: past felony convictions or pending felony charges; any findings by a court or administrative body that you have violated federal or state civil laws relating to securities, banking, housing, or real estate; suspension or revocation of a professional license; a personal or business bankruptcy filing; a foreclosure action; or having been the subject of a tax lien)?
    ___ Yes ___ No

    If you answered Yes, please fully describe the incidents, the timeframes in which they occurred, and their ultimate disposition and provide supporting documentation where appropriate.

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR APPLICATION FORM (REVISED)

17. *Conflicts of Interest*. Other than any relationships described in response to Questions 7 – 8, do you or, to your knowledge, do any of your immediate family members (*i.e.*, a parent, sibling, spouse, child, other dependent, or any relative sharing your residence) or close business associates (*i.e.*, a corporation or organization of which you are an officer or a partner, or in which you own more than ten percent of any class of equity security (including subordinated debt); an individual that is an officer or a partner of, or who owns more than ten percent of any class of equity security (including subordinated debt) in, such a corporation or organization; or a trust in which you have a substantial interest or serve in a fiduciary capacity) have any financial interests or other relationships that might create actual or apparent conflicts of interest or might otherwise lead a reasonable person to question your ability to administer the affairs of the Bank fairly and impartially? ___ Yes ___ No

    If you answered Yes, please fully describe the nature of those interests or relationships, the individuals or entities involved, and their relationship to you.

By executing this Form, you are certifying that:

- **The information you have provided is true, correct, and complete to the best of your knowledge;**
- **You acknowledge that the Bank and the Federal Housing Finance Agency may perform a background check on you, including without limitation regarding any information disclosed herein;**
- **You understand that you have a continuing obligation to inform the Bank of any facts that may call into question your eligibility or ability to serve as a Bank director; and**
- **If you are nominated and elected to serve as a director:**
    - **You and your spouse will relinquish any positions that the Bank determines to be prohibited by the statutory and regulatory independence requirements for independent directors; and**
    - **You will regularly attend the meetings of the board of directors and the board committees to which you are assigned and will devote the time necessary to adequately prepare for those meetings and execute your other responsibilities as an independent director.**

Signature: **Dated:**

Privacy Act Statement: In accordance with the Privacy Act (5 U.S.C. 552a), the following notice is provided. This information is solicited under authority of 12 U.S.C. 1427(a) and (b) and 12 CFR 1261.5, 1261.7, and 1261.10 to 1261.13. Furnishing the information on this Form is voluntary, but failure to do so may result in your not meeting the statutory and regulatory eligibility requirements to serve as a Federal Home Loan Bank independent director. The purpose of this information is to facilitate the timely determination of your eligibility to serve as an independent director. Information may be disclosed in accordance with the routine uses identified in FHFA-System of Records Notice FHFA-8 Federal Home Loan Bank Directors, which may be found at https://www.fhfa.gov/AboutUs/FOIAPrivacy/Documents/SORNs/FHFA-8%20Federal%20Home%20Loan%20Bank%20Directors.pdf.

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR APPLICATION FORM (REVISED)

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OMB No. 2590-0006
Expires ##/##/20##

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR ANNUAL CERTIFICATION FORM (REVISED)

INSTRUCTIONS

The Federal Home Loan Bank of [TO BE COMPLETED BY EACH BANK] (Bank) is required by law to solicit information from its incumbent directors annually to verify that each director remains in compliance with the applicable statutory and regulatory eligibility requirements. Your responses to the questions on this **Federal Home Loan Bank Independent Director Annual Certification Form** will assist the Bank in verifying that you continue to meet the eligibility requirements that apply to the independent directorship in which you are currently serving.

Please complete and execute this Form and return it to the Bank on or before [MARCH 1, {CURRENT YEAR} (or, if 3/1 is not a business day, THE NEXT BUSINESS DAY FOLLOWING 3/1)]. If you fail to submit a completed and executed Form by that date, or if you submit a Form that does not adequately demonstrate that you continue to meet all applicable eligibility requirements, the Bank may determine that you are ineligible to serve, in which case the Bank would be required by law to declare your directorship vacant.

You are eligible to serve as an independent director of the Bank only if you meet all of the following requirements:

- You are a citizen of the United States.
- You are a *bona fide* resident of the Bank District, as determined by meeting either one of the following two sets of criteria:
  - Your principal residence is located in the Bank District; or
  - You both:
    - Own or lease in your own name a residence in the Bank District; and
    - Are employed in a voting state in the Bank District.
- Neither you nor your spouse are:
  - An officer of any Federal Home Loan Bank; or
  - An officer, employee, or director of any member of, or recipient of advances from, the Bank. For purposes of this prohibition:
    - "Advances" includes any form of lending, regardless of whether it is denominated as an "advance"; and
    - "Member" and "recipient of advances" include the institution itself and the institution's holding company, except where the assets of all members or all recipients of advances constitute less than 35 percent of the assets of the holding company, on a consolidated basis.

These eligibility requirements may be found in sections 7(a) and (b) of the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1427(a) and (b), and in FHFA's regulations at 12 CFR 1261.5(c) and 1261.10.

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR ANNUAL CERTIFICATION FORM (REVISED)

YOUR PERSONAL INFORMATION

Please provide your personal information as indicated in Questions 1 –4.

1. *Full Name:*

2. *Other Names Currently or Formerly Used, or Known by:*

3. *Contact Information:*
   - Phone number (leave room for multiple; indicate home, office, or cell):
   - E-mail address:
   - Mailing address: Number/Street (or PO Box), City, State, Zip Code

4. *Current Employment, if Applicable:*
   - Current employer:
   - Your title or position:
   - Address of your place of employment: Number/Street, City, State, Zip Code

ELIGIBILITY REQUIREMENTS

Please answer Questions 5 – 8, regarding your eligibility to serve as an independent director in full.

CITIZENSHIP AND RESIDENCY

You must meet the legal requirements as to U.S. citizenship and Bank District residency to be eligible for nomination for an independent directorship.

5. *Citizenship.* Are you a citizen of the United States? ___ Yes ___ No

6. *Residency.*

   A. Do you own or lease a residence within the Bank District? ___ Yes ___ No

      If you answered No to Question 6A, you do not meet the residency requirement.

   B. If you answered Yes to Question 6A, please provide the street address of your residence within the Bank District: (Number/Street, City, State, Zip Code)

   C. Is the address provided in response to Question 6B your principal residence?
      ___ Yes ___ No

      If you answered Yes to Question 6C, you meet the residency requirement.

      If you answered No to Question 6C, you may still meet the residency requirement if you are employed within the Bank District. Please continue with Question 6D to indicate your in-District employment status.

   D. Are you employed within the Bank District? ___ Yes ___ No

   E. If you answered Yes to Question 6D, please identify your in-District employer:

      - ___ Check if your in-District employment information is the same as that entered in response to Question 4.

- ___ Check if your in-District employment information is different from that entered in response to Question 4, then provide the following information:
  - Name of your in-District employer:
  - Your title or position:
  - Address of your place of employment: Number/Street, City, State, Zip Code

INDEPENDENCE

The information you provide below will enable the Bank to determine whether you continue to meet the independence requirements.

7. *Employment by a Federal Home Loan Bank.*

   A. Are you or your spouse an officer or employee of any Federal Home Loan Bank? ___ Yes ___ No

   B. If you answered Yes to Question 7A, please provide the following information for each such position held by you or your spouse:
      - Name of the person holding the position:
      - Federal Home Loan Bank of:
      - Title or position:
      - Dates held:

8. *Employment by a Bank Member, Housing Associate, or Holding Company.*

   A. Are you or your spouse an officer, director, or employee of a member of the Bank, an entity certified as a housing associate of the Bank, or a holding company that controls one or more members or housing associates of the Bank? ___ Yes ___ No

   B. If you answered Yes to Question 8A, please provide the following information for each such position held by you or your spouse:
      - Name of the person holding the position:
      - Name of the employer:
      - Check the appropriate response below to indicate whether the employer is:
        - ___ a member
        - ___ a holding company of a member
        - ___ a housing associate
        - ___ a holding company of a housing associate
      - Position or Title:
      - Dates held:
      - If the employer is a holding company:
        - Indicate the total assets of the holding company;
        - Indicate the total assets of each member or housing associate of the Bank controlled by the holding company; and
        - Provide, or direct the Bank to, documentation to support those amounts.

FEDERAL HOME LOAN BANK INDEPENDENT DIRECTOR ANNUAL CERTIFICATION FORM (REVISED)

By executing this Form, you are certifying that the information you have provided is true, correct, and complete to the best of your knowledge and that you understand that you have a continuing obligation to inform the Bank of any facts that may call into question your eligibility or ability to serve as a Bank director. You further acknowledge that the Bank and the Federal Housing Finance Agency may perform a background check on you, including without limitation regarding any information disclosed herein.

Signature: **Dated:**

Privacy Act Statement: In accordance with the Privacy Act (5 U.S.C. 552a), the following notice is provided. This information is solicited under authority of 12 U.S.C. 1427(a) and (b) and 12 CFR 1261.5, 1261.7, and 1261.10 to 1261.13. Furnishing the information on this Form is voluntary, but failure to do so may result in your not meeting the statutory and regulatory eligibility requirements to continue to serve as a Federal Home Loan Bank independent director. The purpose of this information is to facilitate the timely determination of your eligibility to continue to serve as an independent director. Information may be disclosed in accordance with the routine uses identified in FHFA-System of Records Notice FHFA-8 Federal Home Loan Bank Directors, which may be found at https://www.fhfa.gov/AboutUs/FOIAPrivacy/Documents/SORNs/FHFA-8%20Federal%20Home%20Loan%20Bank%20Directors.pdf.

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OMB No. 2590-0006
Expires ##/##/20##

[FR Doc. 2021–10771 Filed 5–20–21; 8:45 am]

BILLING CODE 8070–01–C

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 21, 2021.

A. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Gateway First Bancorp, Inc., Jenks, Oklahoma;* to become a bank holding company by acquiring Gateway First Bank, Jenks, Oklahoma.

Board of Governors of the Federal Reserve System, May 18, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–10798 Filed 5–20–21; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice–ME–2021–01; Docket No. 2021–0002; Sequence No. 12]

Notice of GSA Live Webinar Regarding the Federal Government's Implementation of M–21–07 "Completing the Transition to Internet Protocol Version 6 (IPv6)"

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Virtual webinar meeting notice.

SUMMARY: GSA is hosting an IPv6 Summit to bring together the federal and industry communities for an engaging series of panels covering IPv6 implementation progress, opportunities, and best practices.

DATES: Wednesday, June 16th, 2021, at 12:00 p.m. EDT.

ADDRESSES: This is a virtual event and the call-in information will be made available upon registration. All attendees, including industry partners, must register for the ZoomGov event here: *https://gsa.zoomgov.com/webinar/register/8616197996466/WN_DRAiO5uTQMCzpZ7iWx-zkA.*

Members of the press, in addition to registering for this event, must also RSVP to *press@gsa.gov* by June 11th, 2021.

Alternatively, if license limits are reached during this event, this will be simulcasted on Facebook and YouTube.

FOR FURTHER INFORMATION CONTACT: Tom Santucci at *thomas.santucci@gsa.gov* or 202–230–4822.

SUPPLEMENTARY INFORMATION:

Background

The Office of Management and Budget (OMB) issued M–21–07, "Completing the Transition to Internet Protocol Version 6 (IPv6)" located at: *https://www.whitehouse.gov/wp-content/uploads/2020/11/M-21-07.pdf.*

In November 2020 to update guidance on the Federal government's operational deployment and use of IPv6. The memo communicates five categories of agency-level requirements for completing the deployment of IPv6 across all Federal information systems and services:

- Preparing for an IP6-only infrastructure
- Adhering to Federal IPv6 Acquisition Requirements
- Evolving the USGv6 Program
- Ensuring Adequate Security
- Government-wide Responsibilities

Format

The IPv6 Summit convenes leaders from the Federal Government and industry to discuss their experiences implementing IPv6. If you have questions you'd like to ask the panelists about IPv6, you can submit them via email to *dccoi@gsa.gov* by COB June 14, 2021.

Special Accommodations

For those who need accommodations, Zoom will have an option to turn on closed captioning. If additional accommodations are needed, please indicate this on the Zoom registration form.

Live Webinar Speakers (Subject to change without notice).

Hosted by:

- Tom Santucci, *Director, IT Modernization, Office of Government-wide Policy, Host*
- Carol Bales, *Senior Policy Analyst (invited), Office of Management and Budget, Office of the Federal CIO*
- Ron Bewtra, *Chief Technology Officer, IPv6 Task Force Co-Chair, Department of Justice, Office of CIO*

Keynote Speakers:

- Dr. Vint Cerf, *Vice President and Chief Internet Evangelist, Google*
- *TBD, TBD, Federal CIO Council*

AGENDA

[Subject to change without notice]

Start time	Topic
12:00 p.m	Opening Remarks.
12:05 p.m	Opening Keynote: "*Why IPv6 for US Government?*"
12:15 PM	Panel #1: Federal Government Point of View on IPv6.
12:45 p.m	Panel #2: Security Lens.
1:15 p.m	Agency Story #1: Department of Defense.
1:25 p.m	Panel #3: Telecommunications.
1:55 p.m	Agency Story #2: Internet2.
2:00 p.m	Panel #4: Cloud Service Providers.
2:40 p.m	Agency Story #3: IRS.
2:45 p.m	Panel #5: System Integrators Support.
3:30 p.m	Closing Keynote: "*Evolution of IP and World IPv6 Trends.*"
3:55 p.m	Conclusion Remarks.
4:00 p.m	Meeting Concludes.

Thomas Santucci,

GSA IT Modernization Director, General Services Administration.

[FR Doc. 2021–10714 Filed 5–20–21; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10241 and CMS–10545]

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 July 20, 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: _____, 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–10241 Survey of Retail Prices
CMS–10545 Outcome and Assessment Information Set (OASIS) OASIS–D

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:* Revision of a currently approved collection; *Title of Information Collection:* Survey of Retail Prices; *Use:* This information collection request provides for a survey of the average acquisition costs of all covered outpatient drugs purchased by retail community pharmacies. CMS may contract with a vendor to conduct monthly surveys of retail prices for covered outpatient drugs. Such prices represent a nationwide average of consumer purchase prices, net of discounts and rebates. The contractor shall provide notification when a drug product becomes generally available and that the contract include such terms and conditions as the Secretary shall specify, including a requirement that the vendor monitor the marketplace. CMS has developed a National Average Drug Acquisition Cost (NADAC) for states to consider when developing reimbursement methodology. The NADAC is a pricing benchmark that is based on the national average costs that pharmacies pay to acquire Medicaid covered outpatient drugs. This pricing benchmark is based on drug acquisition costs collected directly from pharmacies through a nationwide survey process. This survey is conducted on a monthly basis to ensure that the NADAC reference file remains current and up-to-date. *Form Number:* CMS–10241 (OMB control number 0938–1041); *Frequency:* Monthly; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 72,000; *Total Annual Responses: 72,000; Total Annual Hours:* 36,000. (For policy questions regarding this collection contact: Lisa Shochet at 410–786–5445.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Outcome and Assessment Information Set (OASIS) OASIS–D; *Use:* Due to the COVID–19 related Public Health Emergency, the next version of the Outcome and Assessment Information Set (OASIS), version E planned for implementation January 1, 2021, was delayed. This request is for the Office of Management and Budget (OMB) approval to extend the current OASIS–D expiration date in order for home health agencies to continue data collection required for participation in the Medicare program. The current version of the OASIS–D, data item set was approved by OMB on December 6, 2018 and implemented on January 1, 2019. This request includes updated calculations using 2020 data for wages, number of home health agencies and number of OASIS assessments at each time point. *Form Number:* CMS–10545 (OMB control number: 0938–1279); *Frequency:* Occasionally; *Affected Public:* Private Sector (Business or other for-profit and Not-for-profit institutions); *Number of Respondents:* 11,400; *Total Annual Responses:* 17,932,166; *Total Annual Hours:* 9,893,376. (For policy questions regarding this collection contact Joan Proctor at 410–786–0949).

Dated: May 18, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–10796 Filed 5–20–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB #0970–0355]

Proposed Information Collection Activity; Pre-Testing of Evaluation Data Collection Activities

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) proposes to extend the existing overarching generic clearance for Pre-testing of Evaluation Data Collection Activities (Office of Management and Budget (OMB) #0970–0355) with no changes.

DATES: *Comments due within 30 days of publication.* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: The ACF Office of Planning, Research, and Evaluation (OPRE), at the U.S. Department of Health and Human Services (HHS) intends to request approval from OMB to renew a generic clearance to pre-test data collection instruments with more than nine participants to identify and resolve any question or procedural problems in survey administration.

OPRE studies ACF programs, and the populations they serve, through rigorous research and evaluation projects. These include evaluations of existing programs, evaluations of innovative approaches to helping low-income children and families, research syntheses, and descriptive and exploratory studies. To improve the development of its research and evaluation surveys, OPRE uses the pre-testing of evaluation surveys generic clearance to employ a variety of techniques including cognitive and usability laboratory and field techniques, behavior coding, exploratory interviews, respondent debriefing questionnaires, split sample experiments, focus groups, and pilot studies/pre-tests. These activities allow OPRE to identify if and when a survey may be simplified for respondents, respondent burden may be reduced, and other possible improvements.

Following standard OMB requirements, OPRE will submit a change request for each individual data collection activity under this generic clearance. Each request will include the individual instrument(s), a justification specific to the individual information collection, and any supplementary documents. OMB should review within 10 days of receiving each change request.

The information collected in this effort will not be the primary subject of any published ACF reports; however, information may be made public through methodological appendices or footnotes, reports on instrument development, instrument user guides, descriptions of respondent behavior, and other publications or presentations describing findings of methodological interest. When necessary, results will be labeled as exploratory in nature. The results of this pre-testing research may be prepared for presentation at professional meetings or publication in professional journals.

Respondents: Participants in ACF programs being evaluated; participants in ACF demonstrations; recipients of ACF grants and individuals served by ACF grantees; comparison group members; and other relevant populations, such as individuals at risk of needing ACF services.

Annual Burden Estimates:

Instrument	Estimated total number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Survey development field tests, respondent debriefing questionnaires, cognitive interviews, split sample experiments, focus groups	3,825	1	1	3,825

Estimated Total Annual Burden Hours: 3,825.

Authority: Social Security Act, Sec. 1110 [42 U.S.C. 1310].

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–10731 Filed 5–20–21; 8:45 am]

BILLING CODE 4184–79–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[OMB #0970–0462]

Submission for OMB Review; National and Tribal Evaluation of the 2nd Generation of the Health Profession Opportunity Grants

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Health Profession Opportunity Grants (HPOG) Program provides healthcare occupational training for Temporary Assistance for Needy Families recipients and other low-income people. The Office of Management and Budget (OMB) has approved various data collection activities for the National and Tribal Evaluation of the 2nd Generation of HPOG (HPOG 2.0 National and Tribal Evaluation) under OMB #0970–0462. Due to the profound effects the COVID–19 pandemic has had on the U.S. economy, on families nationwide and on HPOG 2.0 programs, the Office of Planning, Research, and Evaluation (OPRE) is considering surveying study participants who applied to the HPOG Program after the onset of the pandemic. This notice provides a summary for public review and comment of the use and burden associated with a new information collection for this ''COVID Cohort'' Survey.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: The COVID–19 pandemic has had profound effects on the U.S. economy, on the healthcare sector and on individuals and families across the country. The pandemic has also had broad implications for HPOG 2.0 programs—on how and how much healthcare training is delivered, on demand for healthcare workers, on interest in working in health care, and on the labor market more broadly. OPRE seeks to understand the particular experiences of those who apply for the HPOG Program during this period by surveying study participants enrolled after the onset of the pandemic. The COVID Cohort Survey would collect important information on participant experiences 15 months after randomization and would allow the impact study to compare impacts for pre-COVID participants with impacts for those enrolled after the onset the pandemic.

Respondents: HPOG impact study participants from the 27 non-tribal HPOG 2.0 grantees (treatment and control group members who enroll between May 2020 and September 2021).

Annual Burden Estimates: This request is specific to the COVID Cohort Survey. Currently approved materials and associated burden can be found at: *https://www.reginfo.gov/public/do/PRAICList?ref_nbr=201904-0970-006.*

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Average burden per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Instrument 12a: COVID–19 Cohort Survey	5,625	1	1	5,625	1,875

Estimated Total Annual Burden Hours: 1,875.

Authority: Section 2008 of the Social Security Act as enacted by Section 5507 of the Affordable Care Act and Section 413 of the Social Security Act, 42 U.S.C. 613.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–10732 Filed 5–20–21; 8:45 am]

BILLING CODE 4184–72–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Submission for OMB Review; Public Comment Request; State Performance Report [OMB #0985–New]

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506(c)(2)(A) of the Paperwork Reduction Act of 1995. This 30-Day notice collects comments on the information collection requirements related to the State Performance Report. This notice solicits comments on the new information collection requirements relating to the State Performance Report.

DATES: Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by June 21, 2021.

ADDRESSES: Submit written comments and recommendations for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find the information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. By mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW, Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Susan Jenkins, Administration for Community Living, Washington, DC 20201, by email at *Susan.Jenkins@acl.hhs.gov* or by telephone at 202–795–7369.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance.

The Administration for Community Living (ACL) is requesting approval to collect data for the currently approved SPR under 0985–0008 expiring in FY 2022, which is the final reporting year for the currently approved OMB control number (0985–0008). In order to comply with requirements under the PRA it is necessary to place this ''new SPR'' IC under a new OMB control number while keeping the currently approved SPR under 0985–0008 active for remaining reporting in FY 2022.

The purpose of this data collection is to fulfill requirements of the Older Americans Act and the Government Performance and Results Modernization Act (GPRA Modernization Act) of 2010 and related program performance activities.

Section 202(a)(16) of the OAA requires the collection of statistical data regarding the programs and activities carried out with funds provided under the OAA and Section 207(a) directs the Assistant Secretary on Aging to prepare and submit a report to the President and Congress based on those data.

Section 202(f) directs the Assistant Secretary to develop a set of performance outcome measures for planning, managing, and evaluating activities performed and services provided under the OAA. Requirements pertaining to the measurement and evaluation of the impact of all programs authorized by the OAA described in section 206(a). The State Performance Report is one source of data used to develop and report performance outcome measures and measure program effectiveness in achieving the stated goals of the OAA.

The Administration on Aging (now within the Administration for

Community Living) first developed a State Program Report (SPR) in 1996 as part of its National Aging Program Information System (NAPIS). The SPR collects information about the national Aging Network, how State Agencies on Aging expend their OAA funds as well as funding from other sources for OAA authorized supportive services. The SPR also collects information on the demographic and functional status of the recipients, and is a key source for ACL performance measurement. This previously approved ''New SPR'' was a revision of the currently active version (effective 2019–2022) and approved in 2018, also assigned with the same OMB Control Number #0985–0001. This previously approved collection reduces the number of data elements reported by 70% compared to the 2019–2022 SPR.

ACL intends to seek a new OMB Control Number for the for the new SPR effective FY 2022–2025.

This request applies only to making an administrative change to the 2018 approved version of the State Performance Report for State Units on Aging (Older Americans Act Titles III and VII (Chapters 3 and 4) (''new SPR''). ACL intends to use this proposed data to collect information with the FY 2022 reporting year.

Comments in Response to the 60-Day Federal Register Notice: ACL published a 60-day notice in the **Federal Register** soliciting public comments on February 25, 2021, Volume 86, Number 36, pages 11541–11542. ACL received no comments.

Estimated Program Burden: ACL estimates an annual burden of 1,876 hours.

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
SPR	56	1	33.5	1,876
Total	56	1	33.5	1,876

Dated: May 17, 2021.

Alison Barkoff,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2021–10708 Filed 5–20–21; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0441]

Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Cardiovascular and Renal Drugs Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on July 15, 2021, from 10 a.m. to 5 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of the COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2021–N–0441. The docket will close on July 14, 2021. Submit either electronic or written comments on this public meeting by July 14, 2021. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 14, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 14, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before June 30, 2021, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–N–0441 for ''Cardiovascular and Renal Drugs Advisory Committee; Notice of Meeting; Establishment of a

Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Joyce Yu, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave, Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–837–7126, Fax: 301–847–8533, email: *CRDAC@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. The committee will discuss new drug application 213805, for the hypoxia inducible factor prolyl hydroxylase inhibitor, roxadustat tablets, submitted by FibroGen, Inc., for the treatment of anemia due to chronic kidney disease in adult patients not on dialysis and on dialysis.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before June 30, 2021, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 2:30 p.m. and 3:30 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 22, 2021. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 23, 2021.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Joyce Yu (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 14, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10751 Filed 5–20–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–0934]

Adjusting for Covariates in Randomized Clinical Trials for Drugs and Biological Products; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Adjusting for Covariates in Randomized Clinical Trials for Drugs and Biological Products.'' The draft guidance, when finalized, will represent the current thinking of FDA on adjusting for covariates in randomized clinical trials for drugs and biologics. This draft guidance revises the draft guidance ''Adjusting for Covariates in Randomized Clinical Trials for Drugs and Biologics with Continuous

Outcomes'' that published April 25, 2019. This revision provides more detailed recommendations for the use of linear models for covariate adjustment and also includes recommendations for covariate adjustment using nonlinear models.

DATES: Submit either electronic or written comments on the draft guidance by July 20, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–0934 for ''Adjusting for Covariates in Randomized Clinical Trials for Drugs and Biological Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Scott N. Goldie, Center for Drug Evaluation and Research, Office of Biostatistics, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 21, Rm. 3557, Silver Spring, MD 20993–0002, 301–796–2055, or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Adjusting for Covariates in Randomized Clinical Trials for Drugs and Biological Products.'' The target population for a new drug or biological product usually includes individuals with diverse prognostic factors, and the population studied in clinical trials should reflect this diversity. However, baseline differences in prognostic factors may impair the detection and estimation of treatment effects. Incorporating prognostic factors in the statistical analysis of clinical trial data can mitigate this impairment and can result in a more efficient use of data to demonstrate and quantify the effects of treatment. The International Council for Harmonisation guidance for industry entitled ''E9 Statistical Principles for Clinical Trials'' briefly addresses these issues (*https://www.fda.gov/downloads/drugs/guidancecomplianceregulatoryinformation/guidances/ucm073137.pdf*). This draft guidance provides more detailed recommendations for the use of covariate adjustment in randomized clinical trials.

This draft guidance revises the draft guidance ''Adjusting for Covariates in Randomized Clinical Trials for Drugs and Biologics with Continuous Outcomes'' that published April 25, 2019. Compared with the April 2019 draft guidance, this draft guidance provides more detailed recommendations and discusses use of nonlinear models in addition to linear models.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will

represent the current thinking of FDA on ''Adjusting for Covariates in Randomized Clinical Trials for Drugs and Biologics.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this draft guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR 312.23 for the content and format of investigational new drug applications have been approved under OMB control number 0910–0014.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances*, or *https://www.regulations.gov*.

Dated: May 18, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10760 Filed 5–20–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–D–0199]

Enforcement Policy Regarding Use of National Health Related Item Code and National Drug Code Numbers on Device Labels and Packages; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Enforcement Policy Regarding Use of National Health Related Item Code and National Drug Code Numbers on Device Labels and Packages.'' This guidance describes the Agency's policy regarding the prohibition against providing National Health Related Item Code (NHRIC) and National Drug Code (NDC) numbers on device labels and device packages set forth in FDA regulations. As described in the guidance, FDA does not intend to object to the use of FDA legacy identification numbers on device labels and packages for finished devices manufactured and labeled prior to September 24, 2023. The guidance is immediately in effect, but it remains subject to comment in accordance with the Agency's good guidance practices.

DATES: The announcement of the guidance is published in the **Federal Register** on May 21, 2021.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–0199 for ''Enforcement Policy Regarding Use of National Health Related Item Code and National Drug Code Numbers on Device Labels and Packages; Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Enforcement Policy Regarding Use of National Health Related Item Code and National Drug Code Numbers on Device Labels and Packages; Guidance for Industry and Food and Drug Administration Staff'' to the Office of Policy, Guidance and Policy Development, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or the Center for Biologics Evaluation and Research, Office of Communication, Outreach, and Development, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20903. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Steven Luxenberg, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3216, Silver Spring, MD 20993–0002, 301–796–7043, *steven.luxenberg@fda.hhs.gov*; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Section 226 of the Food and Drug Administration Amendments Act of 2007 (Pub. L. 110–85) and section 614 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) amended the Federal Food, Drug, and Cosmetic Act (FD&C Act) to add section 519(f) (21 U.S.C. 360i(f)), which directs FDA to issue regulations establishing a unique device identification system for medical devices along with implementation timeframes for certain medical devices. The final rule (UDI Rule), establishing the unique device identification system, was published on September 24, 2013 (78 FR 58786).

Prior to the establishment of the FDA's unique device identification system, the absence of a standardized, unique identification system for devices led some companies to obtain a labeler code from FDA and place NHRIC or NDC numbers on the labels and packages of certain medical devices. In recognition of this practice, and to further the objectives of the unique device identification program, the UDI Rule includes a provision that rescinds any NHRIC or NDC number, assigned to a medical device.[1] Under § 801.57(a) (21 CFR 801.57(a)), on the date a device is required to bear a UDI on its label, any NHRIC or NDC number assigned to that device is rescinded and may no longer be on the device label or on any device package. If a device is not required to bear a UDI on its label, any NHRIC or NDC number assigned to that device is rescinded as of September 24, 2018, and may no longer be on the device label or on any device package (§ 801.57(b)).

For the reasons described in the guidance, we believe that extending the policy for a limited additional time as stakeholders continue to make changes to transition medical device reimbursement, supply chain, and procurement systems and processes away from use of legacy NHRIC and NDC numbers is appropriate and in the interest of the public health.

By September 24, 2023, more devices will bear UDIs, and we anticipate reimbursement, supply chain, and procurement systems will be better prepared to rely on UDIs. We also intend to work to encourage UDI adoption throughout healthcare data systems, including in those that currently rely on NHRIC and NDC numbers to help facilitate a smooth transition away from use of these legacy identifiers on device labels and fully realize the benefits of UDI. Additionally, the guidance addresses requests for continued use of a previously assigned FDA labeler code under a system for the issuance of UDIs.

This guidance is being implemented without prior public comment because the Agency has determined that prior public participation is not feasible or appropriate (see section 701(h)(1)(C) of the FD&C Act (21 U.S.C. 371(h)(1)(C)) and 21 CFR 10.115(g)(2)). FDA has determined that this guidance presents a less burdensome policy that is consistent with public health. Although this guidance is immediately in effect, FDA will consider all comments received and revise the guidance document as appropriate.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Enforcement Policy Regarding Use of National Health Related Item Code and National Drug Code Numbers on Device Labels and Packages; Guidance for Industry and Food and Drug Administration Staff.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov* and at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances.* Persons unable to download an electronic copy of ''Enforcement Policy Regarding Use of National Health Related Item Code and National Drug Code Numbers on Device Labels and Packages; Guidance for Industry and Food and Drug Administration Staff'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUD1500044 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations have been approved by OMB as listed in the following table:

[1] Although § 801.57 rescinds any NHRIC or NDC ''assigned'' to a device, such NDC numbers are not assigned in compliance with 21 CFR 207.33. Rather, some device manufacturers had labeler codes previously assigned to them by FDA, which they used to create numbers that were labeled as ''NHRIC'' or ''NDC.''

21 CFR part	Topic	OMB control No.
801, subpart B, and 830	Unique Device Identification	0910–0720
800, 801, and 809	Medical Device Labeling Regulations	0910–0485

Dated: May 17, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10752 Filed 5–20–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–D–0268]

Agency Information Collection Activities; Proposed Collection; Comment Request; Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of the recommended labeling of certain beers subject to our labeling jurisdiction.

DATES: Submit either electronic or written comments on the collection of information by July 20, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 20, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of July 20, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2009–D–0268 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of

information they conduct or sponsor. ''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 (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration

OMB Control Number 0910–0728—Extension

The definition of ''food'' under the Federal Food, Drug, and Cosmetic Act (the FD&C Act (21 U.S.C. 321(f)), includes ''articles used for food or drink'' and thus includes alcoholic beverages. As such, alcoholic beverages are subject to the FD&C Act's adulteration and misbranding provisions and implementing regulations related to food. For example, manufacturers of alcoholic beverages are responsible for adhering to the registration of food facilities requirements in 21 CFR part 1 and to the good manufacturing practice regulations in 21 CFR part 110. There are also certain requirements for nutrition labeling on menus, menu boards, and other written materials for alcohol beverages served in restaurants or similar retail food establishments in 21 CFR part 101. However, as reflected in a 1987 Memorandum of Understanding between FDA and the Alcohol and Tobacco Tax and Trade Bureau (TTB), TTB is responsible for the dissemination and enforcement of regulations with respect to the labeling of distilled spirits, certain wines, and malt beverages issued in the Federal Alcohol Administration Act (the FAA Act). In TTB Ruling 2008–3, dated July 7, 2008, TTB clarified that certain beers, which are not made from both malted barley and hops but are instead made from substitutes for malted barley (such as sorghum, rice, or wheat) or are made without hops, do not meet the definition of a ''malt beverage'' under the FAA Act. Accordingly, TTB stated in its ruling that such products (other than saké, which is classified as a wine under the FAA Act), are not subject to the labeling, advertising, or other provisions of TTB regulations issued under the FAA Act.

In cases where an alcoholic beverage is not covered by the labeling provisions of the FAA Act, the product is subject to ingredient and other labeling requirements under the FD&C Act and the implementing regulations that we administer. In addition, as provided for under the Fair Packaging and Labeling Act (FPLA), alcoholic beverages that are not covered by the labeling provisions of the FAA Act are subject to the provisions of the FPLA, which we administer.

Therefore, the beers described in TTB's ruling as not being a ''malt beverage'' are subject to the labeling requirements under the FD&C Act and FPLA, and our implementing regulations. In general, we require that food products under our jurisdiction be truthfully and informatively labeled in accordance with the FD&C Act, the FPLA, and FDA's regulations. Furthermore, some TTB labeling requirements, such as the Government Health Warning Statement under the Alcoholic Beverage Labeling Act and certain marking requirements under the Internal Revenue Code, continue to apply to these products.

Persons with access to the internet may obtain the guidance entitled ''Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration,'' located at *https://www.fda.gov/FoodGuidances.* This guidance is intended to assist manufacturers on how to label bottled or otherwise packaged beers that are subject to our labeling laws and regulations.

Our food labeling regulations under parts 101, 102, 104, and 105 (21 CFR parts 101, 102, 104, and 105) were issued under the authority of sections 4, 5, and 6 of the FPLA (15 U.S.C. 1453, 1454, and 1455) and under sections 201, 301, 402, 403, 409, 411, 701, and 721 of the FD&C Act (21 U.S.C. 321, 331, 342, 343, 348, 350, 371, and 379e). Most of these regulations derive from section 403 of the FD&C Act, which provides that a food product shall be deemed to be misbranded if, among other things, its label or labeling fails to bear certain required information concerning the food product, is false or misleading in any particular, or bears certain types of unauthorized claims. The disclosure requirements and other collections of information in the regulations in parts 101, 102, 104, and 105 are necessary to ensure that food products produced or sold in the United States are in compliance with the labeling provisions of the FD&C Act and the FPLA.

The primary user of the information to be disclosed on the label or labeling of food products is the consumer that purchases the food product. Consumers will use the information to assist them in making choices concerning their purchase of a food product, including choices related to substances that the consumer must avoid to prevent adverse reactions. This information also enables the consumer to determine the role of the food product in a healthful diet. Additionally, FDA intends to use the information to determine whether a manufacturer or other supplier of food products is meeting its statutory and regulatory obligations. Failure of a manufacturer or other supplier of food products to label its products in compliance with section 403 of the FD&C Act and parts 101, 102, 104, and 105 of FDA's food labeling regulations may result in a product being misbranded under the FD&C Act, subjecting the firm and product to regulatory action.

Description of Respondents: The respondents to this collection of information are manufacturers of beers that are subject to our labeling laws and regulations.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR part; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
§§ 101.3 and 101.22; statement of identity labeling requirements.	12	2	24	0.5 (30 minutes)	12
§ 101.4; ingredient labeling requirements	12	2	24	1	24
§ 101.5; requirement to specify the name and place of business of the manufacturer, packer, or distributor.	12	2	24	0.25 (15 minutes)	6
§ 101.9; labeling requirements for disclosure of nutrition information.	12	2	24	4	96
§ 101.7; declaration of net quantity of contents	12	2	24	0.5 (30 minutes)	12
Section 403(w)(1) of the FD&C Act; declaration of food allergens.	12	2	24	1	24
Guidance document entitled ''Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration''.	12	1	12	1	12
Total					186

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate. Our estimate of the number of respondents is based on the number of regulatory submissions to TTB for beers that do not meet the definition of a ''malt beverage'' under the FAA Act. Based on its records of submissions received from manufacturers of such products, TTB estimates the annual number of respondents to be 12 and the annual number of disclosures to be 24.

Our estimates of the average burden per disclosure for each collection provision are based on our experience with food labeling under the Agency's jurisdiction. The estimated average burden per disclosure for §§ 101.3, 101.4, 101.5, 101.9, 101.22, and 101.7 are equal to, and based upon, the estimated average burden per disclosure approved by OMB in OMB control number 0910–0381. We further estimate that the labeling burden of section 403(w)(1) of the FD&C Act, which specifies requirements for the declaration of food allergens, will be 1 hour based upon the similarity of the requirements to that of § 101.4. Finally, we estimate that a respondent will spend 1 hour reading the guidance.

The guidance also refers to previously approved collections of information found in our regulations. The collections of information in §§ 101.3, 101.4, 101.5, 101.9, 101.22, and 101.7 have been approved under OMB control number 0910–0381. Allergen labeling of these beers under section 403(w)(1) of the FD&C Act, which was added by the Food Allergen Labeling and Consumer Protection Act of 2004, has been approved under OMB control number 0910–0792.

Dated: May 14, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10750 Filed 5–20–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–3764]

Demonstrating Bioequivalence for Soluble Powder Oral Dosage Form Products and Type A Medicated Articles Containing Active Pharmaceutical Ingredients Considered To Be Soluble in Aqueous Media; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the availability of a final guidance for industry (GFI) #171 entitled ''Demonstrating Bioequivalence for Soluble Powder Oral Dosage Form Products and Type A Medicated Articles Containing Active Pharmaceutical Ingredients Considered To Be Soluble in Aqueous Media.'' This guidance describes how the Agency intends to evaluate requests for waiving the requirement for performing *in vivo* bioequivalence studies for animal drugs administered orally as soluble powders or as Type A medicated articles manufactured from active pharmaceutical ingredients considered to be soluble in aqueous media.

DATES: The announcement of the guidance is published in the **Federal Register** on May 21, 2021.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–3764 for ''Demonstrating Bioequivalence for Soluble Powder Oral Dosage Form Products and Type A Medicated Articles Containing Active Pharmaceutical Ingredients Considered To Be Soluble in Aqueous Media.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT:

• Biopharmaceutics and Pharmacokinetics: Marilyn Martinez, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0635, *Marilyn.Martinez@fda.hhs.gov.*

• Manufacturing Chemistry: Catherine Finnegan, Center for Veterinary Medicine (HFV–147), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0650, *Catherine.Finnegan@fda.hhs.gov.*

• Generic Drug Approval Requirements/Solubility Concerns: Ian S. Hendricks, Center for Veterinary Medicine (HFV–172), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0853, *Ian.Hendricks@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 30, 2019 (84 FR 51595), FDA published the notice of availability for a draft guidance entitled ''Demonstrating Bioequivalence for Soluble Powder Oral Dosage Form Products and Type A Medicated Articles Containing Active Pharmaceutical Ingredients Considered to be Soluble in Aqueous Media'' giving interested persons until November 29, 2019, to comment on the draft guidance. This guidance describes how the Agency intends to evaluate requests for waiving the requirement for performing *in vivo* bioequivalence studies (biowaivers) for animal drugs administered orally as soluble powders or as Type A medicated articles manufactured from active pharmaceutical ingredients (APIs) considered to be soluble in aqueous media (water-soluble APIs). This guidance expands upon GFI #35, ''Bioequivalence Guidance,'' published November 8, 2006, to include biowaivers for soluble powder oral dosage form products as well as Type A medicated articles manufactured from APIs considered to be soluble in aqueous media. This guidance offers particular focus on criteria for the waiver of the requirements for submitting *in vivo* bioequivalence study data.

This guidance is applicable to generic investigational new animal drug (JINAD) files and to abbreviated new animal drug applications (ANADAs). Although the recommendations in this guidance refer to generic drug applications, the general principles described may also be applicable to new animal drug applications (NADAs), investigational new animal drug (INAD) files, and supplemental NADAs. This guidance does not address Type A medicated articles manufactured from APIs considered to be insoluble in aqueous media.

FDA received no comments on the draft guidance. The Agency made a minor change to the title of the guidance and other minor editorial changes to improve clarity. The guidance announced in this notice finalizes the draft guidance dated September 30, 2019.

This level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Demonstrating Bioequivalence for Soluble Powder Oral Dosage Form Products and Type A Medicated Articles Containing Active Pharmaceutical Ingredients Considered To Be Soluble in Aqueous Media.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in section 512(n)(1) of the Federal Food, Drug, and Cosmetic Act

(21 U.S.C. 360b(n)(1)) have been approved under OMB control number 0910–0669.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry* or *https://www.regulations.gov.*

Dated: May 17, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10756 Filed 5–20–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–N–0458]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (the Committee). The general function of the Committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on June 10, 2021, from 8:30 a.m. to 3:40 p.m. ET.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. The online web conference meeting will be available at the following link on the day of the meeting: *https://youtu.be/70Xhn3K9SlQ.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2021–N–0458. The docket will close on June 9, 2021. Submit either electronic or written comments on this public meeting by June 9, 2021. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 9, 2021. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 9, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before June 3, 2021, will be provided to the committee. Comments received after June 3, 2021, and by June 9, 2021, will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications, submissions, or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–N–0458 for ''Vaccines and Related Biological Products; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Prabhakara Atreya or Kathleen Hayes, Center for Biologics Evaluation and Research, Food and Drug

Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6306, Silver Spring, MD 20993–0002, 240–506–4946 or 240–818–7798, via email at *CBERVRBPAC@fda.hhs.gov;* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/advisory-committees* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before joining the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. The Committee will meet in open session to discuss, in general, data needed to support authorization and/or licensure of COVID–19 vaccines for use in pediatric populations.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/advisory-committees/advisory-committee-calendar.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before June 3, 2021, will be provided to the committee. Comments received after June 3, 2021, and by June 9, 2021, will be taken into consideration by FDA. Oral presentations from the public will be scheduled between approximately 12:30 p.m. Eastern Time and 1:30 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before June 1, 2021. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 2, 2021.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Prabhakara Atreya or Kathleen Hayes (*CBERVRBPAC@fda.hhs.gov*) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at: *https://www.fda.gov/advisory-committees/about-advisory-committees/public-conduct-during-fda-advisory-committee-meetings* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 18, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–10784 Filed 5–20–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; 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 Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Collaborative Innovation Awards Review Meeting.

Date: June 17, 2021.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1068, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health, 6701 Democracy Boulevard, Room 1068, Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 17, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10749 Filed 5–20–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Mood and Psychosis Symptoms during Menopause.

Date: June 14, 2021.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Serena Chu, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd, Room 6000, MSC 9606, Bethesda, MD 20852, 301–500–5829, *serena.chu@nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel; Service-Ready Tools for Identification, Prevention, and Treatment of Individuals at Risk for Suicide.

Date: June 21, 2021.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Marcy Ellen Burstein, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6143, MSC 9606, Bethesda, MD 20892–9606, 301–443–9699, *bursteinme@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 18, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10791 Filed 5–20–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: HEAL Initiative IMPOWR Research Centers and Coordination and Dissemination Center.

Date: June 16, 2021.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yvonne Owens Ferguson, Ph.D., MPH Scientific Review Officer, Office of Extramural Policy and Review, Division of Extramural Research, National Institute on Drug Abuse, NIH/DHHS, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 402–7371, *yvonne.ferguson@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hemostasis, Thrombosis, Blood Cell and Transfusion.

Date: June 17, 2021.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Katherine M Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, (301) 435–0912, *Katherine_Malinda@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Cellular Mechanisms in Aging and Development Study Section.

Date: June 24–25, 2021.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Tami Jo Kingsbury, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710Q, Bethesda, MD 20892, (410) 274–1352, *tami.kingsbury@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 18, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10790 Filed 5–20–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel: Mechanisms/Mediators of Environmentally-Induced Inflammation and Concomitant Return to Homeostasis or Disease.

Date: June 8, 2021.

Time: 10:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, 984–287–3340, *worth@niehs.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel: Mechanism for Time-Sensitive Research Opportunities in Environmental Health Sciences.

Date: June 11, 2021.

Time: 1:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Alfonso R. Latoni, Ph.D., Chief and Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 984–287–3279, *alfonso.latoni@nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel: Collaborative Centers in Children's Environmental Health Research and Translation.

Date: June 14–16, 2021.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Linda K Bass, Ph.D., Linda K Bass, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of

Extramural Research and Training, Nat. Institute Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (984) 287–3236, *bass@niehs.nih.gov*.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel: Collaborative Centers in Children's Environmental Health Research and Translation Meeting 2.

Date: June 17, 2021.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, 984–287–3340, *worth@niehs.nih.gov*.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel: Mechanism for Time-Sensitive Research Opportunities in Environmental Health Sciences (R21).

Date: June 23, 2021.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Alfonso R. Latoni, Ph.D., Chief and Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, National Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, 984–287–3279, *alfonso.latoni@nih.gov*.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel: Functional Genomics for Interrogating GxE Interactions in Disease Review.

Date: June 24–25, 2021.

Time: 10:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/Room 3171, Research Triangle Park, NC 27709, 984–287–3340, *worth@niehs.nih.gov*.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel: Support for Conferences and Scientific Meetings R13.

Date: June 24, 2021.

Time: 12:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Varsha Shukla, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, (984) 287–3288, *Varsha.shukla@nih.gov*.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel: Pediatric and Reproductive Environmental Health Scholars Program K12.

Date: June 30, 2021.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Environmental Health Sciences, Keystone Building, 530 Davis Drive, Durham, NC 27709 (Virtual Meeting).

Contact Person: Varsha Shukla, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, Research Triangle Park, NC 27709, (984) 287–3288, *Varsha.shukla@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: May 17, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10753 Filed 5–20–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; K99 & R13 Meeting.

Date: June 17, 2021.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20814 (Virtual Meeting).

Contact Person: Rajasri Roy, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–480–1266.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 18, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10793 Filed 5–20–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel Clinical Studies.

Date: June 24, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yun Mei, MD, Scientific Review Officer, Scientific Review Branch, Natl Institute of Dental and Craniofacial Research, National Institutes of Health, 6701 Democracy Boulevard, Suite #670, Bethesda, MD 20892, (301) 827–4639, *yun.mei@nih.gov*.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel Member Conflict.

Date: June 25, 2021.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nisan Bhattacharyya, Ph.D., Scientific Review Officer, Scientific Review Branch, NIDCR, NIH, 6701 Democracy Boulevard, Suite 668, Bethesda, MD 20892, 301–451–2405, *nisan_bhattacharyya@nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel Secondary and Genomic Data Analysis Applications.

Date: July 1, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Nisan Bhattacharyya, Ph.D., Scientific Review Officer, Scientific Review Branch, NIDCR, NIH, 6701 Democracy Boulevard, Suite 668, Bethesda, MD 20892, 301–451–2405, *nisan_bhattacharyya@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: May 18, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–10792 Filed 5–20–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board (DTAB) will convene via web conference on June 8th, 2021, from 10:00 a.m. EDT to 4:30 p.m. EDT.

The board will meet in closed-session on June 8th, 2021, from 10:00 a.m. EDT to 4:30 p.m. EDT, to review and discuss draft revisions to the proposed Mandatory Guidelines for Federal Workplace Drug Testing Programs (hair) that have not been made public by the Department of Health and Human Services. Therefore, the June 8th, 2021, from 10:00 a.m. EDT to 4:30 p.m. EDT, meeting is closed to the public, as determined by the Acting Assistant Secretary for Mental Health and Substance Use, SAMHSA, in accordance with 5 U.S.C. 552b(9)(B) and 5 U.S.C. App. 2, Section 10(d).

Meeting registration information can be completed at *http://snacregister.samhsa.gov/MeetingList.aspx.* Web conference and call information will be sent after completing registration. Meeting information and a roster of DTAB members may be obtained by accessing the SAMHSA Advisory Committees website, *https://www.samhsa.gov/about-us/advisory-councils/meetings* or by contacting the Designated Federal Officer, Jennifer Fan.

Committee Name: Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Prevention, Drug Testing Advisory Board.

Dates/Time/Type: June 8, 2021, from 10:00 a.m. to 4:30 p.m. EDT: CLOSED.

Place: Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Rockville, MD 20857.

Contact: Jennifer Fan, Senior Pharmacist, Center for Substance Abuse Prevention, 5600 Fishers Lane, Room 16N06D, Rockville, Maryland 20857, Telephone: (240) 276–1759, Email: *jennifer.fan@samhsa.hhs.gov.*

Anastasia Marie Donovan,

Policy Anayst.

[FR Doc. 2021–10778 Filed 5–20–21; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0235]

National Navigation Safety Advisory Committee; June, 2021 Teleconference

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee teleconference meeting.

SUMMARY: The National Navigation Safety Advisory Committee (Committee) will meet via teleconference to discuss matters relating to maritime collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment; routing measures; marine information; and aids to navigation systems. The meeting will be open to the public.

DATES: *Meeting:* The National Navigation Safety Advisory Committee will meet by teleconference on Tuesday, June 8, 2021, from 9 a.m. until 12:30 p.m. (EDT). The teleconference may adjourn early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the teleconference, submit your written comments no later than June 1, 2021.

ADDRESSES: To access the teleconference line, dial (202) 475–4000 and use participant code 78281729#. To request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on June 1, 2021 to obtain the needed information.

Instructions: You are free to submit comments at any time, including orally at the teleconference as time permits, but if you want Committee members to review your comment before the teleconference, please submit your comments no later than June 1, 2021. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2021–0235]. Comments received will be posted without alteration at *http://www.regulations.gov,* including any personal information 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). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the 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.

FOR FURTHER INFORMATION CONTACT: Mr. George Detweiler, Alternate Designated Federal Officer of the National Navigation Safety Advisory Committee, telephone 202–372–1566 or email *george.h.detweiler@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* 5 U.S.C. Appendix. The National Navigation Safety Advisory Committee Meeting is authorized by § 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018.* The statutory authority is codified in 46 U.S.C. 15107. The Committee operates under the provisions of the *Federal Advisory Committee Act* (5 U.S.C. Appendix) in addition to the administrative provisions applicable to all National Maritime Transportation Advisory Committees in 46 U.S.C. 15109. The Committee advises the Secretary of the Department of Homeland Security through the Commandant of the Coast Guard on matters relating to maritime collisions, rammings, and groundings; Inland Rules of the Road; International Rules of the Road; navigation regulations and equipment; routing measures; marine information; and aids to navigation systems.

Agenda

The agenda for the June 8, 2021, teleconference is as follows:

(1) Introduction.
(2) Designated Federal Officer remarks.
(3) Introduction, roll call of Committee members and determination of a quorum.
(4) Remarks from U.S. Coast Guard Leadership.
(5) Swearing in of Committee members.
(6) Election by Committee members of Chair and Vice Chair.
(7) Members Roles and Responsibilities.
(8) Public comment period.
(9) Closing remarks/plans for next meeting.
(10) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/missions/federal-advisory-committees/national-navigation-safety-advisory-committee-(NNAVSAC)* no later than June 1, 2021. Alternatively, you may contact Mr. George Detweiler as noted in the **FOR FURTHER INFORMATION CONTACT** section above. During the June 8, 2021 teleconference, a public comment period will be held immediately after the discussion on Members Roles and Responsibilities at approximately 12:15 p.m. Public comments will be limited to two minutes per speaker. Please note that the public comments period will end following the last call for comments. Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Dated: May 18, 2021.

Michael D. Emerson,

Director, Marine Transportation Systems.

[FR Doc. 2021–10789 Filed 5–20–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2021–0004; OMB No. 1660–0112]

Agency Information Collection Activities: Proposed Collection; Comment Request; FEMA Preparedness Grants: Transit Security Grant Program (TSGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, 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 an extension, with change, of a currently approved information collection. Three new forms are added to the collection—FEMA TSGP Public Transit Risk Assessment Methodology (PT–RAM), TSGP PT–RAM Gap Analysis, and TSGP PT–RAM Implementation Plan, as these are new forms to the FEMA 089–4 Collection. TSGP is adding these forms to the collection for project risk analysis connected to the purpose of the grant program. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Transit Security Grant Program (TSGP) which is a FEMA grant program that focuses on transportation infrastructure protection activities.

DATES: Comments must be submitted on or before June 21, 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: Laila Ouhamou, Branch Chief, FEMA, 202–786–9461, *Laila.Ouhamou@fema.dhs.gov.* You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: The TSGP is a FEMA grant program that focuses on transportation infrastructure protection activities. The collection of information for TSGP is mandated by Section 1406, Title XIV of the *Implementing Recommendations of the 9/11 Commission Act of 2007* (6 U.S.C. 1135), which directs the Secretary to establish a program for making grants to eligible public transportation agencies for security improvements. Additionally, information is collected in accordance with *Section 1406(c) of the Implementing Recommendations of the 9/11 Commission Act of 2007 (6 U.S.C. 1135(c))* which authorizes the Secretary to determine the requirements for grant recipients, including application requirements.

Collection of Information

Title: FEMA Preparedness Grants: Transit Security Grant Program (TSGP).

Type of Information Collection: Modification of a currently approved information collection.

OMB Number: 1660–0112.

FEMA Forms: FEMA Form 089–4, TSGP Investment Justification Background Document 089–4A, TSGP Five-Year Security Capital and Operational Sustainment Plan 089–4B, FEMA Form 089–4 Public Transit Risk Assessment Methodology PT–RAM, FEMA Form 089–4 TSGP PT–RAM Implementation Plan, and the FEMA TSGP PT–RAM Gap Analysis.

Abstract: The TSGP is an important component of the Department's effort to enhance the security of the Nation's critical infrastructure. The program provides funds to owners and operators of transit systems to protect critical surface transportation infrastructure and the traveling public from acts of terrorism, major disasters, and other emergencies.

Affected Public: Business or other for-profit, State and local government.

Number of Respondents: 123.

Number of Responses: 738.

Estimated Total Annual Burden Hours: 15,375.

Estimated Total Annual Respondent Cost: The estimated annual cost to respondent operations and maintenance costs for technical services is $1,373,353. There are no annual start-up or capital costs.)

Estimated Total Annual Cost to the Federal Government: $963,792.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Millicent L. Brown,

Senior Manager, Records Management Branch Office of the Chief Administrative Officer, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2021–10713 Filed 5–20–21; 8:45 am]

BILLING CODE 9111–78–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0016]

Meeting To Implement Pandemic Response Voluntary Agreement Under Section 708 of the Defense Production Act

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Announcement of meeting; request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) will hold a meeting remotely via web conference to implement the Voluntary Agreement for the Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic. A portion of the meeting will be open to the public.

DATES: The meeting will take place on Tuesday, May 25, 2021, from 1 to 3 p.m. Eastern Time (ET). The first portion of the meeting, from approximately 1 to 2 p.m. ET, will be open to the public.

Written comments for consideration at the meeting must be submitted and received by 12 p.m. ET on Monday, May 24, 2021. Follow-up comments must be received by 5 p.m. ET on Wednesday, June 2, 2021, to be considered.

ADDRESSES: The meeting will be held via web conference. Members of the public may view the public portion of the meeting online at: *https://fema.zoomgov.com/j/1608166430?pwd=ZnJWa2JsT2FJOFBLSEFMWU0yZStzdz09.*

Reasonable accommodations are available for people with disabilities. To request a reasonable accommodation, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section below as soon as possible. Last minute requests will be accepted but may not be possible to fulfill.

To facilitate public participation, members of the public are invited to provide written comments on the issues to be considered at the meeting. The Meeting Objectives listed below outline these issues. Written comments must be identified by Docket ID FEMA–2020–0016, and submitted by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email:* FEMA Office of Response and Recovery, Office of Business, Industry, Infrastructure Integration, *OB3I@fema.dhs.gov.*

Instructions: All submissions must include the docket ID FEMA–2020–0016. Comments received, including any personal information provided, may be posted without alteration at *https://www.regulations.gov.*

Docket: For access to the docket and to read comments received by FEMA, go to *https://www.regulations.gov* and search for Docket ID FEMA–2020–0016.

FOR FURTHER INFORMATION CONTACT: Robert Glenn, Office of Business, Industry, Infrastructure Integration, via email at *OB3I@fema.dhs.gov* or via phone at (202) 212–1666.

SUPPLEMENTARY INFORMATION: Notice of this meeting is provided as required by section 708(h)(8) of the Defense Production Act (DPA), 50 U.S.C. 4558(h)(8), and consistent with 44 CFR part 332.

The DPA authorizes the making of ''voluntary agreements and plans of action'' with, among others, representatives of industry and business to help provide for the national defense.[1] The President's authority to facilitate voluntary agreements was delegated to the Secretary of Homeland Security with respect to responding to the spread of COVID–19 within the United States in Executive Order 13911.[2] The Secretary of Homeland Security has further delegated this authority to the FEMA Administrator.[3]

On August 17, 2020, after the appropriate consultations with the Attorney General and the Chairman of the Federal Trade Commission, FEMA completed and published in the **Federal Register** a ''Voluntary Agreement for the Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic'' (Voluntary Agreement).[4] Unless terminated prior to that date, the Voluntary Agreement is effective until August 17, 2025, and may be extended subject to additional approval by the Attorney General after consultation with the Chairman of the Federal Trade Commission. The Agreement may be used to prepare for or respond to any pandemic, including COVID–19, during that time.

On December 7, 2020, the first plan of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Personal Protective Equipment (PPE) to Respond to COVID–19 (Plan of Action)—was finalized.[5] The Plan of Action established several sub-committees under the Voluntary Agreement, focusing on different aspects of the Plan of Action.

The meeting will be chaired by the FEMA Administrator or her delegate, and attended by the Attorney General or his delegate and the Chairman of the Federal Trade Commission or her delegate. In implementing the Voluntary Agreement, FEMA adheres to all procedural requirements of 50 U.S.C. 4558 and 44 CFR part 332.

Meeting Objectives: The objective of the meeting is to update the general public, and private industry partners, on the status of the Voluntary Agreement, PPE Plan of Action, and Plans of Action concerning Medical Devices, Medical Gases, Diagnostic Testing Kits, and Drug Products/Drug Substances.

Meeting Closed to the Public: By default, the DPA requires meetings held to implement a voluntary agreement or

[1] 50 U.S.C. 4558(c)(1).

[2] 85 FR 18403 (Apr. 1, 2020).

[3] DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020); DHS Delegation Number 09052 Rev. 00 (Jan. 3, 2017).

[4] 85 FR 50035 (Aug. 17, 2020). The Attorney General, in consultation with the Chairman of the Federal Trade Commission, made the required finding that the purpose of the voluntary agreement may not reasonably be achieved through an agreement having less anticompetitive effects or without any voluntary agreement and published the finding in the **Federal Register** on the same day. 85 FR 50049 (Aug. 17, 2020).

[5] *See* 85 FR 78869 (Dec. 7, 2020). *See also* 85 FR 79020 (Dec. 8, 2020).

plan of action be open to the public.[6] However, attendance may be limited if the Sponsor[7] of the Voluntary Agreement finds that the matter to be discussed at a meeting falls within the purview of matters described in 5 U.S.C. 552b(c). The Sponsor of the Voluntary Agreement, the FEMA Administrator, found that a portion of this meeting to implement the Voluntary Agreement involves matters which fall within the purview of matters described in 5 U.S.C. 552b(c) and that portion of the meeting will therefore be closed to the public.

Specifically, the meeting to implement the Voluntary Agreement may require participants to disclose trade secrets or commercial or financial information that is privileged or confidential. Disclosure of such information allows for meetings to be closed pursuant to 5 U.S.C. 552b(c)(4). In addition, the success of the Voluntary Agreement depends wholly on the willing and enthusiastic participation of private sector participants. Failure to close the meeting to the public could have a strong chilling effect on participation by the private sector and cause a substantial risk of premature public release of sensitive information. Such a release of sensitive information could result in participants withdrawing their support from the Voluntary Agreement and thus significantly frustrating the implementation of the Voluntary Agreement. Frustration of an agency's objective due to premature disclosure of information allows for the closure of a meeting pursuant to 5 U.S.C. 552b(c)(9)(B).

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–10800 Filed 5–20–21; 8:45 am]

BILLING CODE 9111–19–P

DEPARTMENT OF HOMELAND SECURITY

[Docket Number DHS–2021–0024]

DHS Individual Complaint of Employment Discrimination, DHS Form 3090–1

AGENCY: Department of Homeland Security, (DHS).

ACTION: 60-day notice and request for comments; extension without change of a currently approved collection, 1610–0014.

SUMMARY: The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted until July 20, 2021. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: You may submit comments, identified by docket number Docket # DHS–2021–0024, at:

○ *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number Docket # DHS–2021–0024. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://ww.regulations.gov.*

SUPPLEMENTARY INFORMATION: Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

It is the policy of the Government of the United States to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age, disability, protected genetic information, or status as a parent, and to promote the full realization of equal employment opportunity (EEO) through a continuing affirmative program in each agency.

Persons who claim to have been subjected to these types of discrimination, or to retaliation for opposing these types of discrimination or for participating in any stage of administrative or judicial proceedings relating to them, can seek a remedy under Title VII of the Civil Rights Act (Title VII) (42 U.S.C. 2000e *et seq.*) (race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin), the Age Discrimination in Employment Act (ADEA) (29 U.S.C. 621 *et seq.*) (age), the Equal Pay Act (29 U.S.C. 206(d)) (sex), the Rehabilitation Act (29 U.S.C. 791 *et seq.*) (disability), the Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. 2000ff *et seq.*) (genetic information), and Executive Order 11478 (as amended by Executive Orders 13087 and 13152) (sexual orientation or status as a parent).

The Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) adjudicates discrimination complaints filed by current and former DHS employees, as well as applicants for employment at DHS. The complaint adjudication process for statutory rights is outlined in the Equal Employment Opportunity Commission (EEOC) regulations found at Title 29, Code of Federal Regulations, Part 1614, and EEOC Management Directive 110. For complaints alleging discrimination prohibited by Executive Order 11478, DHS follows procedures similar to the procedures for statutory rights, to the extent permitted by law.

The recordkeeping provisions are designed to ensure that a current employee, former employee, or applicant for employment claiming to be aggrieved, or that person's attorney, provides a signed statement that is sufficiently precise to identify the aggrieved individual and the agency, and to describe generally the action(s) or practice(s) that form the basis of the complaint. The complaint must also contain a telephone number, email address, and address where the complainant or the representative can be contacted. The complaint form is used for original allegations of discrimination and for amendments to pending complaints of discrimination. The form also determines whether the person is willing to participate in mediation or other available types of alternative dispute resolution (ADR) to resolve the complaint; Congress has enacted legislation to encourage the use of ADR in the federal sector, and the form ensures that such an option is considered at this preliminary stage of the EEO complaint process.

A complainant may access the complaint form on the agency website and may submit a completed complaint form electronically to the relevant Component's EEO Office. The complaint form can then be directly uploaded into the DHS EEO Enterprise Complaints Tracking System, also known as ''icomplaints.''

The burden of compliance with the information collection requirement does not impact small businesses or other small entities.

The information collection frequency specified in the DHS complaint form is the minimum amount necessary and appropriate for the agency to determine whether the allegations should be accepted for investigation, dismissed

[6] *See* 50 U.S.C. 4558(h)(7).

[7] ''[T]he individual designated by the President in subsection (c)(2) [of section 708 of the DPA] to administer the voluntary agreement, or plan of action.'' 50 U.S.C. 4558(h)(7).

due to procedural grounds, or partially accepted and partially dismissed.

Complainants are provided a Privacy Act statement noting the purposes and uses of the information collected. No assurance of confidentiality is provided, because the collection is governed by EEOC Management Directive 110, which provides that ''Once the complaint is filed, the complaint file, or part of it, may be shared only with those who are involved and need access to it. This includes the EEO Director, agency EEO officials, and possibly persons whom the aggrieved person has identified as being responsible for the actions that gave rise to the complaint. The complaint file is not a public document to be released outside the EEO complaint process. The identity of the aggrieved person does not remain confidential in the formal complaint process.'' EEOC Management Directive 110 provides that aggrieved persons be so informed by an EEO counselor prior to the initiation of a formal complaint.

There is a decrease in burden. The previous approval documentation mistakenly included the burden for Federal Employees. This error has been corrected, resulting in the reporting of a reduced annual burden.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis

Agency: Department of Homeland Security, (DHS).

Title: DHS Individual Complaint of Employment Discrimination, DHS Form 3090–1.

OMB Number: 1610–001.

Frequency: On Occasion.

Affected Public: Private Sector.

Number of Respondents: 136.

Estimated Time per Respondent: 1 Hour.

Total Burden Hours: 68.

Robert Dorr,

Executive Director, Business Management Directorate.

[FR Doc. 2021–10712 Filed 5–20–21; 8:45 am]

BILLING CODE 9112–FL–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7039–N–04]

60-Day Notice of Proposed Information Record of Employee Interview OMB Control No. 2501–0009

AGENCY: Office of Davis Bacon Labor Standards and Enforcement, FPM, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* July 20, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Walter Kroptavich, Program Analyst, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410, Room 7108 or the number (202–402–5537) this is not a toll free number or email at *walter.kroptavich@hud.gov* or a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number though TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Record of Employee Interview.

OMB Approval Number: 2501–0009.

Type of Request: Reinstatement with change.

Form Number: HUD –11, HUD–11–SP, HUD–11i.

Description of the need for the information and proposed use: The information is collected using interviews with laborers and mechanics and is compared with employer's certified payroll reports received through other systems. When the collected information is compared with the employer's submitted reports, the information should duplicate itself proving the reports received match the information collected meaning likely compliance with federal labor standards. When there is a difference, an investigation takes place to determine the discrepancy and, when appropriate, declare a federal labor standard violation with steps taken to correct the violation. This collection focuses on the employee as the respondent.

Information collection	Estimated number of respondents	Frequency of response	Total number of responses	Total burden hours per response	Total burden hour annual	Hourly cost per response	Total cost
HUD–11 Record of Employee Interview or HUD–11SP Historial de Entrevista del	37,944	1	37,944	.25	9,486	$28.05	$266,082.31

Information collection	Estimated number of respondents	Frequency of response	Total number of responses	Total burden hours per response	Total burden hour annual	Hourly cost per response	Total cost
HUD–11i Record of Employee Interview Instructions	0	0	0	0	0	0	0
Total	37,944	1	37,944	.25	9,486	28.05	266,082.31

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency'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 those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Krista Mills,

Acting Director, Office of Field Policy and Management.

[FR Doc. 2021–10780 Filed 5–20–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7043–N–01]

60-Day Notice of Proposed Information Collection: OCHCO Personnel Security Integrated System for Tracking (PerSIST) OMB Control No. Pending/New

AGENCY: Office of the Chief Human Capital Officer (OCHCO).

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* July 20, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–5534 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: PIV & Pre-Security Form (HUD Form 22019).

OMB Approval Number: Pending.

Type of Request: New.

Form Number: HUD 22019.

Description of the need for the information and proposed use: The PII collected and maintained in PerSIST is relevant and necessary to carrying out the investigatory process used to document and support decisions regarding the suitability, eligibility, and fitness for service of applicants for federal employment and contract positions, including long-term students, interns, or volunteers to the extent that their duties require access to federal facilities, information, systems, or applications. The following proposed use and authorities that govern the collection of Personally Identifiable Information (PII) data within the PerSIST system is established under HSPD–12 and in accordance with the Personnel Security and Suitability Policy, Handbook. 755.1 (2019), Chapter 4. *http://hudatwork.hud.gov/HUD/chco/doc/PSS-52019.*

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
22019 PIV Pre-Screen Application	1,625	1	1,625	.17	276.25	$34.86	$9,630.08
Total	1,625	1	1,625	.17	276.25	34.86	9,630.08

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency'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 those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Lori A. Michalski,

Acting Chief Human Capital Officer.

[FR Doc. 2021–10701 Filed 5–20–21; 8:45 am]

BILLING CODE 4210–67–P

INTER-AMERICAN FOUNDATION

Sunshine Act Meetings

TIME AND DATE: May 26, 2021, 3:00 p.m.–4:00 p.m.

PLACE: Via tele-conference.

STATUS: Meeting of the Board of Directors, open to the public.

MATTERS TO BE CONSIDERED:

- Call to order
- Discussion on CRM system
- Adjournment

CONTACT PERSON FOR MORE INFORMATION: Aswathi Zachariah, General Counsel, (202) 683–7118.

For Dial-in Information Contact: Karen Vargas, Board Liaison, (202) 524–8869.

Aswathi Zachariah,

General Counsel.

[FR Doc. 2021–10862 Filed 5–19–21; 11:15 am]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2021–N021; FXES11130800000–201–FF08E00000]

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 June 21, 2021.

ADDRESSES: *Document availability and comment submission:* Submit requests for copies of the applications and related documents and submit 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).

- *Email: permitsr8es@fws.gov.*
- *U.S. Mail:* Susie Tharratt, Regional Recovery Permit Coordinator, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825.

FOR FURTHER INFORMATION CONTACT: Susie Tharratt, via phone at 760–414–6561, via email at *permitsr8es@fws.gov,* or via 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 or threatened under the ESA.

Background

With some exceptions, the ESA prohibits activities that constitute take of wildlife species listed as endangered and, by regulation, certain wildlife species listed as threatened 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 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
PER0002932	Karen M. Thorne, Davis, California.	• Soft bird's-beak (*Cordylanthus mollis* ssp. *mollis*).	CA	Remove and reduce to possession from lands under Federal jurisdiction.	New.
PER0003155	Emily Mastrelli, Alpine, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*). • Conservancy fairy shrimp (*Branchinecta conservatio*).	CA	Pursue, capture, handle, release, and collect vouchers.	Renew.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
		• Longhorn fairy shrimp (*Branchinecta longiantenna*). • San Diego fairy shrimp (*Branchinecta sandiegonensis*). • Riverside fairy shrimp (*Streptocephalus woottoni*). • Vernal pool tadpole shrimp (*Lepidurus packardi*).			
PER0003704	University of Hawaii, Honolulu, Hawaii.	• Smith's blue butterfly (*Euphilotes enoptes smithi*).	CA	Pursue, capture, and collect for genetic analysis research.	Renew.
PER0003722	James Hickman, San Bernardino, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*). • San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*).	CA	Pursue, survey, capture, handle, and release.	Renew.
PER0003725	Melanie Madden, Department of the Navy, San Diego, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*). • Least Bell's vireo (*Vireo bellii pusillus*)	CA	Play taped vocalizations, monitor nests, capture, collect genetic samples, handle, band, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests.	Amend.
PER0003728	Tim Bean, San Luis Obispo, California.	• Giant kangaroo rat (*Dipodomys ingens*)	CA	Capture, handle, collect genetic samples, and release.	Renew.
PER0003214	Monica Alfaro, San Diego, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*). • Southwestern willow flycatcher (*Empidonax traillii extimus*).	CA	Pursue and play taped vocalizations.	Renew.
PER0003749	David Cook, Santa Rosa, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segments (DPSs)) (*Ambystoma californiense*).	CA	Capture, handle, mark, collect vouchers, collect tissue samples, and conduct training workshops.	Renew.
PER0003763	Daniel Cooper, Oak Park, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	CA	Play taped vocalizations	Renew.
PER0003167	Elyssa Robertson, Imperial Beach, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*).	CA	Pursue	Renew.
PER0002930	Environmental Science Associates, Sacramento, California.	• Owens tui chub (*Gila bicolor* ssp. *snyderi*).	CA	Population monitoring, capture, handle, tag, release, and electrofish..	New.
PER0003852	Daniel Cordova, U.S. Bureau of Reclamation, Sacramento, California.	• Conservancy fairy shrimp (*Branchinecta conservatio*). • Longhorn fairy shrimp (*Branchinecta longiantenna*). • Vernal pool tadpole shrimp (*Lepidurus packardi*). • California least tern (*Sterna antillarum browni*). • California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segments (DPSs)) (*Ambystoma californiense*). • Tidewater goby (*Eucyclogobius newberryi*).	CA	Survey, nest monitor, capture, handle, band, collect vouchers, and erect predator exclosures.	Renew.
PER0002928	Fresno Chaffee Zoo, Fresno California.	• Blunt-nosed leopard lizard (*Gambelia silus*).	CA	Capture, handle, captive rear, mark, collect blood and tissue samples, test for diseases, propagate, provide veterinary treatment and husbandry, transport, and release.	New.
PER0002866	Darren Wiemeyer, Santa Rosa, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segments (DPSs)) (*Ambystoma californiense*).	CA	Capture, handle, and release	New.
PER0003898	Robert Hamilton, Long Beach, California.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	CA	Play taped vocalization	Renew.
PER0003903	Pyramid Lake Paiute Tribe, Reno, Nevada.	• Cui-ui (*Chasmistes cujus*)	NV	Capture, handle, collect tissue samples, manual spawn, and release.	New.
PER0002512	Gwendolin C. Santos, San Francisco, California.	• California clapper rail (*Rallus longirostris obsoletus*).	CA	Play taped vocalization	New.
PER0003977	Cassandra J. Carroll, University of Nevada, Reno, Reno, Nevada.	• Carson wandering skipper (*Pseudocopaeodes eunus obscurus*).	CA, NV	Pursue, capture, handle, collect tissue sample, release.	New.
PER0002526	Zoological Society of San Diego, San Diego, California.	• Stephens' kangaroo rat (*Dipodomys stephensi* (incl. *D. cascus*)). • San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*). • Pacific pocket mouse (*Perognathus longimembris pacificus*).	CA	Survey, population monitoring, mark, translocate, captive breed, provide veterinary treatment and husbandry, and release.	New.
PER0002931	Lorena Bernal, San Diego, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*).	CA	Pursue	Amend.
PER0002933	Jordan Zylstra, San Jacinto, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*).	CA	Pursue	Renew.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
PER0002934	Jason E. St. Pierre, Cortez, Colorado.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	AZ, CA, CO, NM, NV, UT.	Play taped vocalization	Amend.
PER0002936	Lindsay Griffin, Ventura, California.	• Tidewater goby (*Eucyclogobius newberryi*).	CA	Capture, handle, collect voucher, release.	Renew.
PER0004041	California Department of Parks and Recreation, Oceano Dunes District.	• Tidewater goby (*Eucyclogobius newberryi*). • California least tern (*Sterna antillarum browni*).	CA	Capture, handle, band, move eggs, float eggs, monitor with drones, manage invasive species, and release individuals.	Amend.
PER0002902	Carolynn Daman, San Luis Obispo, California.	• Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*). • Fresno kangaroo rat (*Dipodomys nitratoides exilis*). • Giant kangaroo rat (*Dipodomys ingens*).	CA	Capture, handle, and release	Renew and amend.
PER0002934	Jason St. Pierre, Durango, Colorado.	• Southwestern willow flycatcher (*Empidonax traillii extimus*).	AZ, CA, CO, NM, NV, UT.	Play taped vocalizations	Amend.
PER0004071	Sharon Dulava, San Jose, California.	• California clapper rail (*Rallus longirostris obsoletus*).	CA	Play taped vocalizations	New.
PER0004121	Margaret Mulligan, San Diego, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*).	CA	Pursue	Renew.
PER0004174	Mark J. Bellini, Ojai, California	• Southwestern willow flycatcher (*Empidonax traillii extimus*). • Least Bell's vireo (*Vireo bellii pusillus*)	CA	Play taped vocalizations and monitor nests.	Amend.
PER0004496	Scott Werner, Ojai, California	• Southwestern willow flycatcher (*Empidonax traillii extimus*). • Least Bell's vireo (*Vireo bellii pusillus*)	CA	Play taped vocalizations, monitor nests, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests.	Renew.
PER0005173	Thomas Ryan, Monrovia, California.	• California clapper rail (*Rallus longirostris obsoletus*). • Light-footed clapper rail (*Rallus longirostris levipes*). • Yuma Ridgways (clapper) rail (*Rallus obsoletus [=longirostris] yumanensis*). • California least tern (*Sterna antillarum browni*). • Southwestern willow flycatcher (*Empidonax traillii extimus*). • Least Bell's vireo (*Vireo bellii pusillus*)	CA	Survey, play taped vocalizations, locate and monitor nests, capture, handle, measure, band and release, float eggs, use nest exclosures, mark, radio tag, erect and use cameras to monitor nesting sites, conduct predator aversion activities, collect abandoned or non-viable eggs, collect feathers, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests.	Renew and Amend.
PER0007536	Linette Davenport, Anchorage, Alaska.	• Southwestern willow flycatcher (*Empidonax traillii extimus*). • Least Bell's vireo (*Vireo bellii pusillus*)	CA	Play taped vocalizations, monitor nests, and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests.	Renew.
ES–837760	Kendall Osborne, Jurupa Valley, California.	• Quino checkerspot butterfly (*Euphydryas editha quino*). • Palos Verdes blue butterfly (*Glaucopsyche lygdamus palosverdesensis*). • El Segundo blue butterfly (*Euphilotes battoides allyni*). • Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*),. • Laguna Mountains skipper (*Pyrgus ruralis lagunae*),. • Casey's June beetle (*Dinacoma caseyi*).	CA	Pursue, capture, handle, and release.	Renew and amend.
PER0009318	Yurok Tribe Wildlife Department, Klamath, California.	• California condor (*Gymnogyps californianus*).	AZ, CA, ID, NM, NV, UT.	Capture, handle, transport wild or captive-bred individuals, conduct health checks, treat injured or sick individuals, and release.	New.
PER0008862	SWCA, Inc., San Luis Obispo, California.	• Morro shoulderband (=Banded dune) snail (*Helminthoglypta walkeriana*). • Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*). • Fresno kangaroo rat (*Dipodomys nitratoides exilis*). • Giant kangaroo rat (*Dipodomys ingens*)	CA	Capture, handle, release, and perform habitat enhancement.	Renew.
PER0008920	Meghan R. Bishop, Richmond, California.	• California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segments (DPSs)) (*Ambystoma californiense*). • Conservancy fairy shrimp (*Branchinecta conservatio*).	CA	Capture, handle, collect voucher specimens, and release.	Renew.

Application No.	Applicant, city, state	Species	Location	Take activity	Permit action
		• Longhorn fairy shrimp (*Branchinecta longiantenna*). • San Diego fairy shrimp (*Branchinecta sandiegonensis*). • Vernal pool tadpole shrimp (*Lepidurus packardi*).			

Public Availability of Comments

Written comments we receive become part of the 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 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.*).

Angela Picco,

Regional Ecological Services Program Leader, California-Great Basin Region 10 (formerly Pacific Southwest Regional Office–Region 8).

[FR Doc. 2021–10773 Filed 5–20–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000.L1440000.BJ0000.212.HAG 21–0039]

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Oregon State Office, Portland, Oregon, 30 calendar days from the date of this publication.

DATES: The BLM must receive protests prior to the scheduled date of official filing, June 21, 2021.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the BLM, Oregon State Office, 1220 SW 3rd Avenue, Portland, Oregon 97204, upon required payment. The plats may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT: Mary Hartel, Branch of Geographic Sciences, Bureau of Land Management, 1220 SW 3rd Avenue, Portland, OR 97204; email: *mhartel@blm.gov;* telephone: 503–808–6131. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact Ms. Hartel. The service is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the BLM, Oregon State Office, Portland, Oregon:

Willamette Meridian, Oregon

T. 30 S., R. 4 W., accepted January 11, 2021
T. 20 S., R. 4 W., accepted January 11, 2021
T. 2 N., R. 33 E., accepted January 11, 2021
T. 31 S., R. 5 W., accepted January 11, 2021
T. 7 N. R. 10 W., accepted January 11, 2021
T. 38 S., R. 8 W., accepted January 11, 2021
T. 20 S., R. 2 W., accepted January 11, 2021
T. 34 S., R. 6 W., accepted February 22, 2021
T. 39 S., R. 5 E., accepted February 22, 2021
T. 9 S., R. 26 E., accepted February 22, 2021
T. 13 S., R. 6 W., accepted February 22, 2021
Tps. 25 & 26 S., R. 2 W., accepted March 24, 2021
T. 22 S., R. 7 W., accepted March 24, 2021
Tps 38 & 39 S., R. 2 W., accepted March 24, 2021
T. 38 S., R. 4 E., accepted March 24, 2021
T. 33 S., R. 3 E., accepted March 24, 2021
Tps. 32 & 33 S, Rgs. 3 & 4 W., accepted March 24, 2021

Willamette Meridian, Washington

T. 25 N., R. 20 E., accepted January 11, 2021
T. 9 N., R. 10 W., accepted March 24, 2021

A person or party who wishes to protest one or more plats of survey identified in this **Federal Register** notice must file a written notice of protest with the Chief Cadastral Surveyor for Oregon/Washington, BLM. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered. A notice of protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Oregon/Washington during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the Chief Cadastral Surveyor for Oregon/Washington within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C., Chapter 3)

Mary Hartel,

Chief Cadastral Surveyor of Oregon/Washington.

[FR Doc. 2021–10699 Filed 5–20–21; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO80200–L10200000.PH0000–212]

Statewide Call for Nominations for Colorado Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of call for nominations.

SUMMARY: The purpose of this notice is to request public nominations for the Bureau of Land Management (BLM) Colorado's Northwest, Southwest, and Rocky Mountain Resource Advisory Councils (RAC) to fill existing vacancies, as well as member terms that are scheduled to expire. The RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas.

DATES: All nominations must be received no later than June 21, 2021.

ADDRESSES: Nominations and completed applications should be sent to the BLM Colorado District Offices listed in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Jayson Barangan, BLM Colorado Lead Public Affairs Specialist, 2850 Youngfield St., Lakewood, CO 80215, telephone: (303) 239–3681, email: *jbaranga@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at (800) 877–8339 to contact Mr. Barangan during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by the BLM. Section 309 of FLPMA (43 U.S.C. 1739) directs the Secretary to establish 10- to 15-member citizen-based advisory councils that are consistent with the Federal Advisory Committee Act (FACA). As required by FACA, RAC membership must be balanced and representative of the various interests concerned with the management of the public lands. The rules governing RACs are found at 43 CFR subpart 1784 and include the following three membership categories:

Category One—Holders of Federal grazing permits or leases within the area for which the RAC is organized; represent interests associated with transportation or rights-of-way; represent developed outdoor recreation, off-highway vehicle users, or commercial recreation activities; represent the commercial timber industry; or represent energy and mineral development.

Category Two—Representatives of nationally or regionally recognized environmental organizations; dispersed recreational activities; archaeological and historical interests; or nationally or regionally recognized wild horse and burro interest groups.

Category Three—Hold State, county, or local elected office; are employed by a State agency responsible for the management of natural resources, land, or water; represent Indian tribes within or adjacent to the area for which the RAC is organized; are employed as academicians in natural resource management or the natural sciences; or represent the affected public-at-large.

Individuals may nominate themselves or others. Nominees must be residents of the State of Colorado. The BLM will evaluate nominees based on their education, training, experience, and knowledge of the geographic area of the RAC. Nominees should demonstrate a commitment to collaborative resource decision-making.

The following must accompany all nominations:

—A completed RAC application, which can either be obtained through your local BLM office or online at: *https://www.blm.gov/sites/blm.gov/files/RPMC%20Nomination%20Form.pdf*
—Letters of reference from represented interests or organizations; and
—Any other information that addresses the nominee's qualifications.

Simultaneous with this notice, BLM Colorado will issue a press release providing additional information for submitting nominations.

Nominations and completed applications should be sent to the office listed below:

Rocky Mountain RAC

Brant Porter, BLM Rocky Mountain District Office, 3028 East Main Street, Cañon City, CO 81212; phone (970) 901–9581; email *beporter@blm.gov.*

Northwest Colorado RAC

Chris Maestas, BLM Northwest Colorado District Office, 455 Emerson Street, Craig, Colorado 81625; Phone: (970) 826–5000; email *cjmaestas@blm.gov.*

Southwest RAC

Shawn Reinhardt, BLM Southwest Colorado District Office, 2465 South Townsend Avenue, Montrose, CO 81401; Phone (970) 240–5430; email *sreinhardt@blm.gov.*

(Authority: 43 CFR 1784.4–1)

Jamie E. Connell,

BLM Colorado State Director.

[FR Doc. 2021–10723 Filed 5–20–21; 8:45 am]

BILLING CODE 4310–84–P

INTERNATIONAL TRADE COMMISSION

[Inv. Nos. 701–TA–667 and 731–TA–1559 (Preliminary)]

Organic Soybean Meal From India

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of organic soybean meal from India, provided for in subheadings 1208.10.00 and 2304.00.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the government of India.[2]

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in § 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under §§ 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under §§ 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] *Organic Soybean Meal From India: Initiation of Countervailing Duty Investigation,* 86 FR 22136 (April 27, 2021); and *Organic Soybean Meal From India: Initiation of Less-Than-Fair-Value Investigation,* 86 FR 22146 (April 27, 2021).

Background

On March 31, 2021, the Organic Soybean Processors of America, Washington, DC, American Natural Processors, LLC, Dakota Dunes, South Dakota, Lester Feed & Grain Co., Lester, Iowa, Organic Production Services, LLC, Weldon, North Carolina, Professional Proteins Ltd., Washington, Iowa, Sheppard Grain Enterprises, LLC, Phelps, New York, Simmons Grain Co., Salem, Ohio, Super Soy, LLC, Brodhead, Wisconsin, and Tri-State Crush, Syracuse, Indiana filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized and LTFV imports of organic soybean meal from India.[3]

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 8, 2021 (86 FR 18296). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its conference through written testimony and video conference on April 21, 2021. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on May 17, 2021. The views of the Commission are contained in USITC Publication 5198 (May 2021), entitled *Organic Soybean Meal from India: Investigation Nos.731–TA–667 and 731–TA–1559 (Preliminary).*

By order of the Commission.

Issued: May 17, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–10728 Filed 5–20–21; 8:45 am]

BILLING CODE 7020–02–P

[3] On April 6, 2021, Lester Feed & Grain Co. voluntarily withdrew its status as a petitioner.

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–528–529 and 731–TA–1264–1268 (Review)]

Certain Uncoated Paper From Australia, Brazil, China, Indonesia, and Portugal; Notice of Commission Determination To Conduct Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it will proceed with full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the countervailing duty orders on certain uncoated paper from China and Indonesia and the antidumping duty orders on certain uncoated paper from Australia, Brazil, China, Indonesia, and Portugal would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the reviews will be established and announced at a later date.

DATES: May 7, 2021.

FOR FURTHER INFORMATION CONTACT: Ahdia Bavari (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

SUPPLEMENTARY INFORMATION: On May 7, 2021, the Commission determined that it should proceed to full reviews in the subject five-year reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). The Commission found that both the domestic and respondent interested party group responses to its notice of institution (86 FR 7734, February 1, 2021) were adequate. A record of the Commissioners' votes will be available from the Office of the Secretary and at the Commission's website.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: May 18, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–10766 Filed 5–20–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1256]

Certain Portable Battery Jump Starters and Components Thereof; Commission Determination Not To Review Two Initial Determinations Granting Complainant's Motion To Amend the Complaint and Notice of Investigation and Joint Motions Terminating the Investigation as to Several Respondents Based on Settlement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review: (1) An initial determination (''ID'') (Order No. 13) of the presiding administrative law judge (''ALJ'') granting complainant's unopposed motion to amend the complaint and notice of investigation (''NOI'') to substitute certain corporate entities named as respondents; to add two respondents; and to withdraw certain infringement allegations; and (2) an ID (Order No. 14) granting an unopposed joint motion to terminate the investigation as to respondent Lowe's Companies, Inc. and proposed new respondent Lowe's Home Centers, LLC (collectively, ''Lowe's''), both of Mooresville, North Carolina based on settlement; and an unopposed joint motion to terminate the investigation as to respondent O'Reilly Automotive, Inc. and proposed new respondents Ozark Purchasing, LLC; O'Reilly Automotive Stores, Inc.; and O'Reilly Auto Enterprises, LLC (collectively, ''O'Reilly''), all of Springfield, Missouri based on settlement. Respondents Lowe's and O'Reilly are terminated from the investigation.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 23, 2021, based on a complaint filed by The NOCO Company (''NOCO'') of Glenwillow, Ohio. 86 FR 15496–98 (Mar. 23, 2021). The complaint, as amended and supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain portable battery jump starters and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 9,007,015 and 10,604,024 (''the '024 patent''), and U.S. Trademark Registration Nos. 4,811,656 and 4,811,749. The complaint further alleges the existence of a domestic industry. The Commission's NOI named forty-four (44) respondents, including: Lowe's Companies, Inc.; O'Reilly Automotive, Inc.; Halo2Cloud, LLC of Hartford, Connecticut, QVC, Inc. of Chester, Pennsylvania, and Zagg Co. Rrd Gst of Plainfield, Indiana (collectively, ''HALO''); Anker Technology (UK) Ltd. of Birmingham, United Kingdom; Shenzhen Dingjiang Technology Co., Ltd. and Shenzhen Topdon Technology Co., Ltd. (collectively ''Shenzhen''), both of Shenzhen, China; and Winplus North America, Inc. of Costa Mesa, California. The Office of Unfair Import Investigations is participating in the investigation.

On April 21, 2021, NOCO moved to amend the complaint and NOI as follows: (1) Substitute Lowe's Home Centers, LLC, for presently named respondent Lowe's Companies, Inc.; (2) substitute O'Reilly Automotive Stores, Inc., O'Reilly Auto Enterprises, LLC, and Ozark Purchasing, LLC for presently named respondent O'Reilly Automotive, Inc.; (3) substitute Anker Innovations Ltd. (HK) of Birmingham, United Kingdom for presently named respondent Anker Technology (UK) Ltd.; (4) substitute ZAGG Inc. of Midvale, Utah for presently named respondent Zagg Co. Rrd Gst; (5) substitute Shenzhen Dingjiang Technology Co., Ltd. (d/b/a Shenzhen Topdon Technology Co., Ltd. and Topdon Technology Co., Ltd.) of Shenzhen, China for presently named respondents Shenzhen; and (6) add additional respondents ADC Solutions Auto, LLC d/b/a Type-S and Winplus NA, LLC, both of Costa Mesa, California, which are related to presently named respondent Winplus North America, Inc. NOCO also moved to withdraw infringement allegations as to HALO's accused products with respect to the '024 patent and correct certain typographical and clerical errors.

On April 22, 2021, NOCO and Lowe's jointly moved to terminate the investigation as to Lowe's based on a settlement agreement between NOCO and Lowe's that resolves all issues between these parties. On the same date, NOCO and O'Reilly jointly moved to terminate the investigation as to O'Reilly based on a settlement agreement between NOCO and O'Reilly that resolves all issues between these parties. Both motions were unopposed.

On April 23, 2021, the ALJ issued the subject IDs. Order No. 13 grants NOCO's unopposed motion to amend the complaint and notice of investigation as described above. The ID finds that the motion satisfies Commission Rule 210.14(b) (19 CFR 210.14(b)) because good cause exists to amend the complaint and NOI as detailed in NOCO's motion. Order No. 14 grants the unopposed joint motions to terminate the investigation as to Lowe's and O'Reilly based on settlement. The IDs find that the joint motions satisfy the requirements of Commission Rule 210.21(b) (19 CFR 210.21(b)) and that terminating the investigation as to Lowe's and O'Reilly is not contrary to the public interest. No party petitioned for review of either ID.

The Commission has determined not to review the subject IDs. The complaint and NOI are amended as detailed in NOCO's motion. In addition, Lowe's and O'Reilly are terminated from the investigation.

The Commission vote for this determination took place on May 17, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: May 18, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–10767 Filed 5–20–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1170]

Certain Mobile Devices With Multifunction Emulators; Notice of a Commission Determination To Review in Part a Final Initial Determination Finding no Violation of Section 337; Request for Written Submissions on the Issues Under Review and on Remedy, the Public Interest, and Bonding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the Administrative Law Judge's (''ALJ'') final initial determination (''ID'') issued on March 16, 2021, finding no violation of section 337 in the above-referenced investigation. The Commission requests briefing from the parties on certain issues under review, as indicated in this notice, and submissions from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding, under the schedule set forth below.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3042. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On August 16, the Commission instituted this investigation based on a complaint filed by Dynamics Inc. (''Dynamics'') of

Cheswick, Pennsylvania. 84 FR 42009–10 (Aug. 16, 2019). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain mobile devices with multifunction emulators by reason of infringement of one or more of claims 1 and 5–8 of U.S. Patent No. 8,827,153 (''the '153 patent''); claims 1–20 of U.S. Patent No. 10,032,100 (''the '100 patent''); claims 1–7, 9–13, 19, 21, and 22 of U.S. Patent No. 10,223,631 (''the '631 patent''); and claims 1–16 of U.S. Patent No. 10,255,545 (''the '545 patent''). *Id.* at 42010. The Commission's notice of investigation named as respondents Samsung Electronics Co., Ltd of Gyeonggi, Republic of Korea and Samsung Electronics America, Inc. of Ridgefield Park, New Jersey (collectively, ''Samsung''). *Id.* The Office of Unfair Import Investigations is not participating in this investigation.

On September 3, 2019, the ALJ set a sixteen-month target date of December 16, 2020 for completion of the investigation. Order No. 3 (Sept. 3, 2019). The Order set an evidentiary hearing for May 11–15, 2020.

On November 26, 2019, the ALJ held a *Markman* hearing, and on January 31, 2020, issued Order No. 7, construing certain claim terms of the asserted patents.

On May 20, 2020, the ALJ issued an initial determination granting Dynamics' unopposed motion for partial termination of the investigation as to claims 5, 6, and 8 of the '153 patent, claims 2, 3, 5, 7, 9–11, 13–17, 19, and 20 of the '100 patent, claims 2, 3, 5, 7, 9–13, 19, and 21 of the '631 patent, and claims 2, 4, and 6–16 of the '545 patent. Order No. 15 (May 20, 2020), *unreviewed,* Notice (June 15, 2020).

Due to the ongoing COVID–19 pandemic, the ALJ amended the procedural schedule several times. On March 12, 2020, the Commission postponed all in-person hearings under section 337 scheduled within the next sixty days. *See* 85 FR 15498 (Mar. 18, 2020). Thus, the ALJ issued Order No. 10, rescheduling the evidentiary hearing for June 22–26, 2020.

On April 6, 2020, the ALJ issued Order No. 12, resetting the target date to February 23, 2021 due to the COVID–19 pandemic. Order No. 12 (Apr. 6, 2020), *unreviewed,* Notice (Apr. 24, 2020).

On May 14, 2020, the Commission extended the postponement of all section 337 hearings. *See* 85 FR 30734–5 (May 20, 2020). On June 22, 2020 the Commission further extended the postponement of all in-person section 337 hearings ''until such time as the agency enters Phase Three of the Commission's three-phase plan to re-establish on-site business operations.'' 85 FR 38388–9 (June 26, 2020). This order is currently in effect.

On August 11, 2020, the ALJ scheduled a virtual hearing using the Commission's newly established videoconference software for November 16–20, 2020 and reset the target date for July 16, 2021. Order No. 24 (Aug. 11, 2020), *unreviewed,* Notice (Sept. 8, 2020).

On March 16, 2021, the ALJ issued the final ID, finding no violation of section 337. The ID found that the importation requirement under 19 U.S.C. 1337(a)(1)(B) is satisfied. ID at 28. Specifically, the ID found that ''[t]he parties stipulated to facts establishing the importation requirement is met for both respondents'' and that ''Samsung does not dispute the Commission's jurisdiction over this investigation or that the requisite importation or sale in connection with importation has taken place for each Accused Product.'' *Id.* Accordingly, the ID found that the Commission has jurisdiction over this investigation and that the importation requirement has been satisfied. *Id.*

With respect to the domestic industry requirement, the ID found that Dynamics had satisfied the domestic industry requirement for the '100 patent, but not the '153, '631, and '545 patents. ID at 183–84. For the domestic industry requirement's technical prong, the ID found that Dynamics failed to show it practiced any claim of the '153 and '631 patents. *Id.* at 60–64, 127–31. For the '545 patent, however, the ID found that Dynamics had shown it was ''in the process'' of practicing claim 1 of the '545 patent. *Id.* at 148–52. With respect to the domestic industry requirement's economic prong, for the '153 and '631 patents, the ID found that Dynamics had shown it had made significant investments in satisfaction of section 337(a)(3)(A) and (B), 19 U.S.C. 1337(a)(3)(A)–(B). *Id.* at 158–79. For the '545 patent, the ID found that Dynamics had not shown that it was ''in the process'' of establishing a U.S. industry. *Id.* at 180–83.

With respect to infringement and validity, the ID found that Samsung infringes claims 1 and 7 of the '153 patent and that Samsung failed to establish that those claims are invalid. ID at 45–58, 64–69. The ID also found that Samsung infringes claims 1, 4, 6, 12, and 18 of the '100 patent (except for claim 6 as to certain modified products), but that the asserted claims, except for claim 4 are invalid as anticipated or obvious by prior art. *Id.* at 83–88, 96–115. The ID further found that Samsung directly infringes claims 1, 4, 6, and 22 of the '631 patent, but that those claims are invalid as anticipated or obvious by prior art. *Id.* at 121–127, 131–140. The ID also found that Samsung directly infringes claims 1, 3, and 5 of the '545 patent, but that those claims are invalid for anticipation. Finally, the ID found that Samsung failed to carry its burden with respect to various additional affirmative defenses under 35 U.S.C. 102(f), 116 (inventorship), or 112 (written description and enablement).

The ID included the ALJ's recommended determination on remedy and bonding (''RD''). The RD recommended that the Commission should issue a limited exclusion order and cease and desist orders if it finds a violation. ID/RD at 186–91. The ID, however, recommended imposing no bond on covered products that may be imported during the period of Presidential review. *Id.* at 193.

On March 29, 2021, Dynamics filed a petition for review of the ID, and Samsung filed a contingent petition for review. On April 8, 2021, Dynamics and Samsung submitted responses to each other's petition.

Having examined the record of this investigation, including the ID, the petitions for review, and the responses thereto, the Commission has determined to review the ID with respect to the following: (1) For the '153 patent, claim construction of the term ''analog waveform'' as well as the related infringement and technical prong analysis, (2) for the '153 patent, the ID's finding that the combination of Shoemaker and Gutman fails to render the asserted claims obvious; (3) for the '100 patent, whether Doughty in combination with VivoTech renders obvious claim 4 and whether such issue was waived, whether claims 4 and 6 are infringed, and whether the domestic industry requirement is satisfied; and (4) for the '545 patent, the ID's domestic industry findings. The Commission has determined not to review the remainder of the ID.

The parties are requested to brief their positions on only the following issues:

1. If the Commission construes ''analog waveform'' to mean ''a wave shape whose amplitude changes in a continuous fashion'' that includes so-called real-world square waves, please cite record evidence and explain whether the accused products and DI products meet the relevant claim limitations.

2. Given Gutman's disclosure that ''communication of data by the card of

the current invention is independent of movement of the card or placement of the card within the magnetic card reader'' (Gutman at col.17 ll.10–13), please explain why or why not one of ordinary skill would be motivated to combine Shoemaker with Gutman.

3. While Gutman states that ''no 'swiping' movement is necessary,'' the disclosure ''allows users to perform the familiar 'swiping' movement while using the card 200 of the present invention for users that have become accustomed to the 'swiping' movement of the card 106.'' Gutman at col.16 l.66—col.17 l.4. Please discuss the legal significance of this disclosure to an obviousness inquiry in light of Samsung's proposal to combine Gutman with Shoemaker to solve the so-called directionality problem associated with ''swiping.''

The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record. The parties are not to brief other issues on review, which are adequately presented in the parties' existing filings.

In connection with the final disposition of this investigation, the Commission may issue: (1) An exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) a cease-and-desist order that could result in the respondent being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (Dec. 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to this investigation are requested to file written submissions on the issues identified in this Notice and on the issues of remedy, the public interest, and bonding. Complainant is requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the date that the patents expire and the HTSUS subheadings under which the accused products are imported. Complainant is further requested to supply the names of known importers of Respondents' products at issue in this investigation.

The parties' written submissions and proposed remedial orders must be filed no later than the close of business on Wednesday, June 2. Reply submissions must be filed no later than the close of business on Wednesday, June 9. Opening submissions are limited to 50 pages. Reply submissions are limited to 30 pages. Such submissions should address the ALJ's recommended determination on remedy and bonding. Interested government agencies and any other interested parties are also encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Third-party submissions should be filed no later than the close of business on Wednesday, June 9. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (March 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1170'') in a prominent place on the cover page and/or the first page. (*See* Handbook on Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The Commission's vote on this determination took place on May 17, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR 210).

By order of the Commission.

Issued: May 17, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–10727 Filed 5–20–21; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Law Enforcement Suicide Data Collection Pilot Testing

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division, will be submitting the following information collection request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until June 21, 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 Federal Bureau of Investigation, 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 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:* Plans to perform pilot testing of the questionnaire and electronic application proposed for use in the upcoming Law Enforcement Suicide Data Collection.

2. *The Title of the Form/Collection:* Law Enforcement Suicide Data Collection (In development); pilot testing to be completed under existing Instrument Pretesting and Generic Clearance (Control Number 1110–0057).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There is no form number for this collection. The applicable component within the Department of Justice is the Criminal Justice Information Services Division, in the Federal Bureau of Investigation.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Law enforcement, academia, and the general public.

Abstract: This survey is needed to collect feedback on the Federal Bureau of Investigation Unform Crime Reporting Program's plan to perform pilot testing of the Law Enforcement Suicide Data Collection questionnaire and electronic application.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The Federal Bureau of Investigation Uniform Crime Reporting Program's Law Enforcement Suicide Data Collection Pilot Testing will involve a maximum of 25 respondents with an estimated 120 minutes of burden per respondent (30 minutes for completion of the questionnaire and 90 minutes for completion of the cognitive testing interview).

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 50 hours, annual burden, associated with this pilot testing plan.

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: May 18, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021–10744 Filed 5–20–21; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Federal Bureau of Prisons

Record of Decision; Final Supplemental Environmental Impact Statement for the Proposed Development of a Federal Correctional Institution and Federal Prison Camp on the Grounds of the United States Penitentiary in Leavenworth, KS

The U.S. Department of Justice, Federal Bureau of Prisons (BOP) announces the availability of the Record of Decision (ROD) concerning the Final Supplemental Environmental Impact Statement (FSEIS) for the proposed development of a Federal Correctional Institution (FCI) and Federal Prison Camp (FPC) on the grounds of the United States Penitentiary (USP) in Leavenworth, Kansas.

Background Information: Pursuant to Section 102 of the National Environmental Policy Act of 1969 and the Council of Environmental Quality Regulations found at 40 CFR parts 1500–1508, BOP has prepared Draft Supplemental and Final Supplemental Environmental Impact Statements (EISs) for the development of a medium-security FCI and a minimum-security satellite work camp, to replace the existing, aged correctional facilities.

Project Information: The mission of the BOP is to protect society by confining offenders in the controlled environments of prison and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

A growing challenge to the BOP's mission is that an increasing number of federal correctional facilities and supporting infrastructure are aging, resulting in an ongoing need for new facilities and infrastructure. Among the oldest are the medium-security facility and federal prison camp at USP Leavenworth. In the FSEIS, BOP proposed to construct and operate a new FCI designed to house approximately 1,152 medium-security inmates and an FPC designed to house 256 minimum-security inmates with approximately 338 staff for operation. Development of a new FCI and FPC will help to meet the need for modern correctional facilities and infrastructure and to address the specific need for a new medium-security FCI and minimum-security FPC in Leavenworth to replace the existing, aged correctional facilities.

Once development is completed and the new facilities are activated, inmates

housed at the USP and FPC will be transferred to the new facilities along with the complement of correctional officers and other staff. After this transfer, the existing USP and FPC will no longer house inmates.

The analysis conducted under NEPA guidelines address the following alternatives:

- No Action Alternative—A decision not to proceed with the proposed action to develop a new FCI/FPC.
- Alternative Locations—Locations other than Leavenworth, Kansas, for implementation of the proposed action and warranting only a brief explanation of the reasons for elimination.
- Action Alternatives—Alternative building location within the grounds of USP Leavenworth which best meets BOP requirements for development while minimizing potential adverse environmental impacts.
- Preferred Alternative—The alternative preferred by the BOP for implementation of the proposed action.

No reasonable alternatives outside the jurisdiction of the BOP (the lead agency) have been identified or warranted inclusion in the FSEIS. Development of the proposed FCI/FPC at USP Leavenworth under the East–1 plan is considered by the BOP to be the Preferred Alternative.

The BOP issued a Draft Supplemental EIS in November 2020 with publication of the Notice of Availability (NOA) in the **Federal Register** on November 20, 2020. The NOA provided for a 45-day public comment period which began on November 20, 2020, and ended on January 4, 2021. During the public comment period, the BOP held a virtual public hearing concerning the proposed action and the Draft Supplemental EIS on December 30, 2020. Approximately 39 individuals attended the public hearing.

The Final Supplemental EIS addressed comments received on the Draft Supplemental EIS. Publication of the NOA in the **Federal Register** concerning the Final Supplemental EIS occurred on February 26, 2021. The 30-day review period for receipt of public comments concerning the Final Supplemental EIS ended on March 29, 2021. The comments received on the Final Supplemental EIS were considered in the decision presented in the ROD.

BOP provided written notices of the availability of the Draft Supplemental EIS and the FSEIS in the **Federal Register**, a newspaper with local and regional circulations, and through publication on a website established for this EIS process at *https://www.proposed-fci-fpc-leavenworth.com/communications.*

Availability of Record of Decision: The Record of Decision and other information regarding this project are available on the project website at *https://www.proposed-fci-fpc-leavenworth.com/communications* or upon request.

For further information please contact Cheryl D. Ciccone, Acting Chief, or Kimberly S. Hudson, Site Selection Specialist, Construction and Environmental Review Branch, Federal Bureau of Prisons, 320 First Street NW, Room 901–5, Washington, DC 20534, Tel: 202–514–6470 Fax: 202–260–0702/ Email: cciccone@ *bop.gov/kshudson@ bop.gov.*

Cheryl D. Ciccone,

Acting Chief, Construction and Environmental Review Branch, Federal Bureau of Prisons.

[FR Doc. 2021–10575 Filed 5–20–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Safe + Sound Campaign

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety and Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 21, 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.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Crystal Rennie by telephone at 202–693–0456 or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: OSHA established the Safe + Sound Campaign, a voluntary effort to support the implementation of safety and health programs in businesses throughout the United States. The Campaign includes periodic activities and events, ranging from regular email updates to quarterly national Webinars to local meetings to an annual national stand down, designated to increase overall employer and employee awareness and understanding of safety and health programs and promote employer adoption of these programs. To gain information needed to support this effort, OSHA is proposing to survey, and in some cases interview, those participating in the Campaign activities. The goal of the information collection is to understand and respond to the needs of participants and publicly highlight outcomes to enhance the effectiveness of the Campaign. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on December 9, 2020 (85 FR 79222).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Safe + Sound Campaign.

OMB Control Number: 1218–0269.

Affected Public: Private Sector, Businesses or other for-profits.

Total Estimated Number of Respondents: 10,550.

Total Estimated Number of Responses: 10,550.

Total Estimated Annual Time Burden: 719 Hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Crystal Rennie,

Senior PRA Analyst.

[FR Doc. 2021–10765 Filed 5–20–21; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–21–0007; NARA–2021–031]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: NARA must receive comments by July 6, 2021.

ADDRESSES: You may submit comments by the following method. You must cite the control number, which appears on the records schedule in parentheses after the name of the agency that submitted the schedule.

- *Federal eRulemaking Portal: http://www.regulations.gov.*

Due to COVID–19 building closures, we are currently temporarily not accepting comments by mail. However, if you are unable to comment via *regulations.gov*, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

FOR FURTHER INFORMATION CONTACT: Kimberly Keravuori, Regulatory and External Policy Program Manager, by email at *regulation_comments@nara.gov.* For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov,* by mail at the address above, or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we have made to the proposed records schedule. We will then send the schedule for final approval by the Archivist of the United States. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Agriculture, Animal and Plant Health Inspection Service, Federal Select Agent Program (DAA–0463–2021–0007).

2. Department of the Air Force, Agency-wide, Special Investigations (DAA–AFU–2020–0008).

3. Department of the Navy, Agency-wide, Aeronautical and Astronautical

Material Records (DAA–NU–2020–0001).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2021–10730 Filed 5–20–21; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0106]

Supplemental Guidance for Radiological Consequence Analyses Using Alternative Source Terms

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft interim staff guidance; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is soliciting public comment on its draft Interim Staff Guidance (ISG) Supplemental Guidance for Radiological Consequence Analyses Using Alternative Source Terms. This draft ISG proposes changes to the NRC's license amendment request (LAR) review guidance document. This ISG is not intended as standalone guidance but instead supplements NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR [Light-Water Reactor] Edition'' Section 15.0.1, ''Radiological Consequence Analyses Using Alternative Source Terms.'' NUREG–0800, Section 15.0.1 was published in July 2000 and is not scheduled to be updated for several years. This ISG provides additional guidance for the NRC staff reviewing LARs that request to increase the main steam isolation valve (MSIV) leakage allowed by technical specifications (TS) for boiling water reactors (BWRs).

DATES: Submit comments by June 21, 2021. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0106. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jerry Dozier, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3925, email: *Jerry.Dozier@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0106 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–2021–0106.
- *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 proposed ISG, ''Supplemental Guidance for Radiological Consequence Analyses Using Alternative Source Terms'' is available in ADAMS under Accession No. ML21078A051.
- Attention: The 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 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0106 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

This ISG is intended to provide guidance for the NRC staff reviewing LARs that request to increase the MSIV leakage allowed by TS for BWRs. This ISG is not intended as standalone guidance but instead supplements NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR [Light-Water Reactor] Edition'' Section 15.0.1, ''Radiological Consequence Analyses Using Alternative Source Terms'' (ADAMS Accession No. ML003734190).

As noted in an NRC memorandum, ''Implementing Commission Direction on Applying Risk-informed Principles in Regulatory Decision making,'' dated November 19, 2019 (ADAMS Accession No. ML19319C832), the staff's application of risk-informed decision making continues to evolve as improved realism, evaluation techniques, and additional information are applied to improve regulatory decision making. The development of this ISG serves as an example of NRC's continuous efforts in working toward being a more modern and risk-informed regulator.

Dated: May 17, 2021.

For the Nuclear Regulatory Commission.

Michael X. Franovich,

Director, Division of Risk Assessment, Office of Nuclear Reactor Regulation.

[FR Doc. 2021–10748 Filed 5–20–21; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–92 and CP2021–95]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 24, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. Docket No(s).: MC2021–92 and CP2021–95; Filing Title: USPS Request to Add Priority Mail Contract 700 to Competitive Product List and Notice of Filing Materials Under Seal; Filing Acceptance Date: May 14, 2021; Filing Authority: 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; Public Representative: Kenneth R. Moeller; Comments Due: May 24, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–10705 Filed 5–20–21; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

POSTAL REGULATORY COMMISSION

[Docket No. CP2021–94; Order No. 5891]

Competitive Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is acknowledging a recent filing by the Postal Service of specific rates for its Inbound Letter Post Small Packets and Bulky Letters product effective January 1, 2022. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 24, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Contents of Filing
III. Administrative Actions
IV. Ordering Paragraphs

I. Introduction

On May 14, 2021, the Postal Service filed a notice of rates not of general applicability for Inbound Letter Post Small Packets and Bulky Letters (Inbound E-format Letter Post) effective January 1, 2022.[1] The Postal Service requests that the Commission favorably review the proposed prices so that the Postal Service may submit the prices to the Universal Postal Union (UPU) before the June 1, 2021 deadline. Notice at 5.

II. Contents of Filing

In its Notice, the Postal Service proposes new prices for the Inbound Letter Post Small Packets and Bulky Letters product. *Id.* at 2. Under the UPU, by June 1, 2021, the Postal Service may submit self-declared rates for Inbound Letter Post Small Packets and Bulky Letters that would take effect on January 1, 2022.[2] The Postal Service states that the proposed prices comply with 39 U.S.C. 3633. Notice at 4. To support its proposed Inbound Letter Post Small Packets and Bulky Letters prices, the Postal Service filed the proposed prices (Attachment 2); a copy of the certification required under 39 CFR 3015.5(c)(2) (Attachment 3); and a redacted copy of Governors' Decision 19–1 (Attachment 4). *Id.; see id.* Attachments 2–4. The Postal Service also filed redacted financial workpapers. Notice at 4.

In addition, the Postal Service filed an unredacted copy of Governors' Decision 19–1, the unredacted new prices, and related financial information under seal. *Id.* The Postal Service also provided an application for non-public treatment of material filed under seal filed pursuant to 39 CFR part 3007. *Id.* Attachment 1.

[1] Notice of the United States Postal Service of Rates Not of General Applicability for Inbound E-Format Letter Post, and Application for Non-Public Treatment, May 14, 2021, at 1 (Notice).

[2] *Id.;* Universal Postal Convention (UPU Convention) Article 28bis.1. UPU Convention is available at *http://www.upu.int/uploads/tx_sbdownloader/actsActsOfTheExtraordinaryCongressGenevaEn.pdf.*

III. Administrative Actions

The Commission establishes Docket No. CP2021–94 for consideration of matters raised by the Notice and appoints Katalin K. Clendenin to serve as Public Representative in this docket. The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, and 39 CFR 3035.105 and 107. Comments are due no later than May 24, 2021. The public portions of the filing can be accessed via the Commission's website (*http://www.prc.gov*).

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2021–94 for consideration of the matters raised by the Postal Service's Notice.
2. Comments are due no later than May 24, 2021.
3. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin will serve as an officer of the Commission (Public Representative) to represent the interests of the general public in these dockets.
4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2021–10722 Filed 5–20–21; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91904; File No. SR–NASDAQ–2021–007]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Adopt Additional Initial Listing Criteria for Companies Primarily Operating in Jurisdictions That Do Not Provide the PCAOB With the Ability To Inspect Public Accounting Firms

May 17, 2021.

I. Introduction

On February 1, 2021, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt additional initial listing criteria for companies primarily operating in jurisdictions that do not provide the Public Company Accounting Oversight Board (''PCAOB'') with the ability to inspect public accounting firms. The proposed rule change was published for comment in the **Federal Register** on February 16, 2021.[3] On March 26, 2021, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order institutes proceedings pursuant to Section 19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange states that the Exchange's rules, in addition to federal securities laws, require that a company's financial statements included in its initial registration statement or annual report be audited by an independent public accountant that is registered with the PCAOB.[7] According to the Exchange, the Exchange and investors rely on the work of auditors to provide reasonable assurances that the financial statements provided by a company are free of material misstatements, and on the PCAOB's critical role in overseeing the quality of the auditor's work.[8] *The Exchange states its belief* that accurate financial statement disclosure is critical for investors to make informed investment decisions.[9]

The Exchange states that the former Chairman and former Chief Accountant of the Commission and the Chairman of the PCAOB have raised concerns that national barriers on access to information can impede effective regulatory oversight of U.S.-listed companies with operations in certain countries, including the PCAOB's inability to inspect the audit work and practices of auditors in those countries.[10] The Exchange states that similar concerns have been expressed by members of Congress, the State Department, and the President's Working Group on Financial Markets.[11] The Exchange states that it shares these concerns and believes the lack of transparency from certain markets raises concerns about the accuracy of disclosures, accountability, and access to information, particularly when a company is based in a jurisdiction that does not provide the PCAOB with access to conduct inspections of public accounting firms that audit Nasdaq-listed companies (''Restrictive Market'').[12]

The Exchange further states that such concerns can be compounded when a company from a Restrictive Market lists on the Exchange through an initial public offering (''IPO'') or a business combination with a small offering size or a low public float percentage because such companies may not attract market attention and develop sufficient public float, investor base, and trading interest to provide the depth and liquidity necessary to promote fair and orderly trading.[13] According to the Exchange, such securities may trade infrequently, in a more volatile manner and with a wider bid-ask spread, all of which may result in trading at a price that may not

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 91089 (February 9, 2021), 86 FR 9549 (''Notice''). Comments on the proposed rule change can be found at: *https://www.sec.gov/comments/sr-nasdaq-2021-007/srnasdaq2021007.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 91413, 86 FR 17263 (April 1, 2021). The Commission designated May 17, 2021 as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Notice, *supra* note 3, at 9549. *See also* Nasdaq Rules 5210(b) and 5250(c)(3) (requiring for initial and continued listing on Nasdaq that companies must be audited by an independent public accountant that is registered as a public accounting firm with the PCAOB); 15 U.S.C. 7212(a) (Registration with the PCAOB); 17 CFR 210.2–01 (Qualifications of Accountants).

[8] *See* Notice, *supra* note 3, at 9550.

[9] *See id.*

[10] *See id.* (citing to various statements by former Commission Chairman Jay Clayton, former Commission Chief Accountant Wes Bricker, and PCAOB Chairman William D. Duhnke III, available at *https://www.sec.gov/news/public-statement/statement-vital-role-audit-quality-and-regulatory-access-audit-and-other; https://www.sec.gov/news/public-statement/emerging-market-investments-disclosure-reporting;* and *https://www.sec.gov/news/public-statement/clayton-emerging-markets-roundtable-2020-07-09). See id.* at 9550, n.8.

[11] *See id.* at 9550 (citing to ''Congress Passes Legislation to De-List Chinese Companies Unless U.S. Has Access to Audit Workpapers'' (December 2, 2020), available at *https://sherman.house.gov/media-center/press-releases/congress-passes-legislation-to-de-list-chinese-companies-unless-us-has;* Former Commission Chairman Jay Clayton, ''Statement after the Enactment of the Holding Foreign Companies Accountable Act'' (December 18, 2020), available at *https://www.sec.gov/news/public-statement/clayton-hfcaa-2020-12#_ftn5;* Press Statement of Michael R. Pompeo, Secretary of State, New Nasdaq Restrictions Affecting Listing of Chinese Companies (June 4, 2020), available at *https://2017-2021-translations.state.gov/2020/06/04/new-nasdaq-restrictions-affecting-listing-of-chinese-companies/index.html;* President's Working Group on Financial Markets: Report on Protecting United States Investors from Significant Risks from Chinese Companies (July 24, 2020), available at *https://home.treasury.gov/system/files/136/PWG-Report-on-Protecting-United-States-Investors-from-Significant-Risks-from-Chinese-Companies.pdf). See id.* at 9550, nn.9–11.

[12] *See id.* at 9550.

[13] *See id.*

reflect their true market value.[14] Furthermore, the Exchange states that less liquid securities may be more susceptible to price manipulation and that, in particular, the risk of price manipulation due to insider trading is more acute with respect to a company that principally administers its business in a Restrictive Market (''Restrictive Market Company''), particularly if a company's financial statements contain undetected material misstatements due to error or fraud and the PCAOB is unable to inspect the company's auditor to determine if it complied with PCAOB and Commission rules and professional standards in connection with its performance of audits.[15] The Exchange states that risk to investors in such cases may be compounded because regulatory investigations into price manipulation, insider trading, and compliance concerns may be impeded and investor protections and remedies may be limited in such cases due to obstacles encountered by U.S. authorities in bringing or enforcing actions against the companies and insiders.[16]

Nasdaq states that it believes the U.S. capital markets can provide Restrictive Market Companies with access to additional capital to fund ground-breaking research and technological advancements and that such companies provide U.S. investors with opportunities to diversify their portfolio by providing exposure to Restrictive Markets.[17] However, Nasdaq further states that it believes that Restrictive Market Companies present unique potential risks to U.S. investors due to restrictions on the PCAOB's ability to inspect the audit work and practices of auditors in those countries, which create concerns about the accuracy of disclosures, accountability, and access to information.[18] Nasdaq states that it believes its proposal will reduce trading volatility and price manipulation and help to ensure that Restrictive Market Companies have sufficient investor base and public float to support fair and orderly trading on the Exchange.[19]

Specifically, the Exchange proposes to adopt a definition of ''Restrictive Market'' [20] and to apply additional initial listing requirements to a Restrictive Market Company listing on the Exchange in connection with an IPO or a business combination.[21] The Exchange also proposes to prohibit a Restrictive Market Company from listing on the Nasdaq Capital Market in connection with a Direct Listing,[22] but to allow a Restrictive Market Company to list on the Nasdaq Global Select Market or Nasdaq Global Market in connection with a Direct Listing, provided that such company meets all applicable initial listing requirements for such market.

A. Definition of Restrictive Market

The Exchange proposes to adopt a new definition of Restrictive Market in Nasdaq Rule 5005(a)(37).[23] As proposed, a Restrictive Market will be defined as a jurisdiction that does not provide the PCAOB with access to conduct inspections of public accounting firms that audit Nasdaq-listed companies.[24] Under the proposed rule, Nasdaq will consider a company's business to be principally administered in a Restrictive Market if: (i) The company's books and records are located in that jurisdiction; (ii) at least 50% of the company's assets are located in such jurisdiction; or (iii) at least 50% of the company's revenues are derived fromsuch jurisdiction.[25]

B. Minimum Offering Size or Public Float Percentage Requirement for an IPO

The Exchange proposes to adopt new Nasdaq Rule 5210(k)(i) to require a Restrictive Market Company listing its Primary Equity Security [26] on Nasdaq in connection with its IPO to offer a minimum amount of securities in a Firm Commitment Offering [27] in the U.S. to Public Holders [28] that (i) will result in gross proceeds to the Company of at least $25 million or (ii) will represent at least 25% of the Company's post-offering Market Value of Listed Securities,[29] whichever is lower. A Restrictive Market Company listing on the Exchange in connection with an IPO that is subject to the proposed rule would also need to comply with all other applicable listing requirements.[30]

[14] *See id.* The Exchange also states that foreign issuers are more likely to issue a portion of an offering to investors in their home country, which raises concerns that such investors will not contribute to the liquidity of the security in the U.S. secondary market. *See id.*

[15] *See id.*

[16] *See id.*

[17] *See id.* at 9553–54. *See also* Letter from Jeffrey S. Davis, Senior Vice President, General Counsel, Nasdaq, Inc. (April 30, 2021) (''Nasdaq Response Letter''), at 2.

[18] *See* Notice, *supra* note 3, at 9554.

[19] *See id. See also* Nasdaq Response Letter, *supra* note 17, at 3.

[20] *See infra* note 24 and accompanying text.

[21] The Exchange states that, currently, it may rely upon its discretionary authority under Nasdaq Rule 5101 to deny initial listing or apply additional or more stringent criteria when it is concerned that a small offering size for an IPO may not reflect the company's initial valuation or may not ensure sufficient liquidity to support trading in the secondary market. Pursuant to Nasdaq Rule 5101, Nasdaq has broad discretionary authority over the initial and continued listing of securities in Nasdaq in order to maintain the quality of and public confidence in its market, to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and to protect investors and the public interest. Nasdaq may use such discretion to deny initial listing, apply additional or more stringent criteria for the initial or continued listing of particular securities, or suspend or delist particular securities based on any event, condition, or circumstance that exists or occurs that makes initial or continued listing of the securities on Nasdaq inadvisable or unwarranted in the opinion of Nasdaq, even though the securities meet all enumerated criteria for initial or continued listing on Nasdaq. *See* Nasdaq Rule 5101.

[22] Nasdaq defines ''Direct Listing'' as the listing of ''companies that have sold common equity securities in private placements, which have not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 immediately prior to the initial pricing.'' *See* Nasdaq Rule IM–5315–1.

[23] The Exchange proposes to renumber current paragraphs (a)(37) through (a)(46) of Nasdaq Rule 5005 in connection with the addition of the definition of Restrictive Market. *See* Notice, *supra* note 3, at 9551.

[24] *See* proposed Nasdaq Rule 5005(a)(37). The Exchange states that the PCAOB maintains a map of where it can and cannot conduct oversight activities on its website and publishes a list identifying the public companies for which a PCAOB-registered public accounting firm signed and issued an audit report and is located in a jurisdiction where obstacles to PCAOB inspections exist. *See* Notice, *supra* note 3, at 9551.

[25] *See* proposed Nasdaq Rule 5005(a)(37). The term ''Company'' means the issuer of a security listed or applying to list on Nasdaq. *See* Nasdaq Rule 5005(a)(6). The Exchange provides the following examples. Company X's books and records are located in Country Y, which is not a Restrictive Market, while 90% of its revenues are driven from operations in Country Z, which is a Restrictive Market. Nasdaq would consider Company X's business to be principally administered in Country Z, so Company X would be considered a Restrictive Market Company. Alternatively, Company A's books and records are located in Country B, which is a Restrictive Market, but 90% of its revenues are derived from Country C, which is not a Restrictive Market. Nasdaq would consider Company A's business to be principally administered in Country B, so Company A would be considered a Restrictive Market Company. *See* Notice, *supra* note 3, at 9551.

[26] Nasdaq Rule 5005(a)(33) defines ''Primary Equity Security'' as ''a Company's first class of Common Stock, Ordinary Shares, Shares or Certificates of Beneficial Interest of Trust, Limited Partnership Interests or American Depositary Receipts (ADR) or Shares (ADS).''

[27] Nasdaq Rule 5005(a)(17) defines ''Firm Commitment Offering'' as ''an offering of securities by participants in a selling syndicate under an agreement that imposes a financial commitment on participants in such syndicate to purchase such securities.''

[28] Nasdaq Rule 5005(a)(36) defines ''Public Holders'' as ''holders of a security that includes both beneficial holders and holders of record, but does not include any holder who is, either directly or indirectly, an Executive Officer, director, or the beneficial holder of more than 10% of the total shares outstanding.''

[29] ''Market Value'' means the consolidated closing bid price multiplied by the measure to be valued. *See* Nasdaq Rule 5000(a)(23). ''Listed Securities'' means securities listed on Nasdaq or another national securities exchange. *See* Nasdaq Rule 5000(a)(22).

[30] The Exchange provides the following examples to illustrate the proposed rule. First, Company X, which principally administers its business in a Restrictive Market, is applying to list on Nasdaq

The Exchange states that it believes this proposed listing requirement for Restrictive Market Companies conducting an IPO will provide greater support for the company's price, as determined through the offering, and will help assure there will be sufficient liquidity, U.S. investor interest, and distribution to support price discovery once the security is listed.[31] In addition, the Exchange states that the proposal will help ensure that Restrictive Market Companies seeking to list on the Exchange have sufficient investor base and public float to support fair and orderly trading on the Exchange.[32]

The Exchange further states that it has observed that Restrictive Market Companies listing on Nasdaq in connection with an IPO with an offering size below $25 million or public float ratio below 25% have a high rate of compliance concerns.[33] The Exchange states that it believes the proposed listing requirement for Restrictive Market Companies conducting an IPO will mitigate such compliance concerns.[34]

C. Minimum Market Value of Unrestricted Publicly Held Shares Requirement for a Business Combination

The Exchange proposes to adopt new Nasdaq Rule 5210(k)(ii) to require a Company that is conducting a business combination, as described in Nasdaq Rule 5110(a)[35] or IM–5101–2,[36] with a Restrictive Market Company to have a minimum Market Value of Unrestricted Publicly Held Shares[37] following the business combination equal to the lesser of (i) $25 million or (ii) 25% of post-business combination entity's Market Value of Listed Securities. A Restrictive Market Company subject to the proposed rule would also need to comply with all other applicable listing requirements.[38]

The Exchange states that it believes that a business combination as described in Nasdaq Rule 5110(a) or IM–5101–2 involving a Restrictive Market Company presents similar risks to U.S. investors as an IPO of a Restrictive Market Company, and therefore, Nasdaq believes it is appropriate to apply similar thresholds to post-business combination entities to ensure that a company listing through a business combination would have satisfied equivalent standards that apply to an IPO.[39] The Exchange further states that it believes that the proposed listing requirement for post-business

Global Market and has an expected post-offering Market Value of Listed Securities of $75,000,000. Since 25% of $75,000,000 is $18,750,000, which is lower than $25,000,000, pursuant to the requirements of the proposed rule, Company X would be eligible to list based on a Firm Commitment Offering in the U.S. to Public Holders of at least $18,750,000. Company X would also need to comply with the other applicable listing requirements of the Nasdaq Global Market, including a Market Value of Unrestricted Publicly Held Shares of at least $8 million. *See* Notice, *supra* note 3, at 9551; Nasdaq Rule 5405(b)(1)(C). *See also* Nasdaq Rules 5005(a)(45) (definition of ''Unrestricted Publicly Held Shares''), 5005(a)(46) (definition of ''Unrestricted Securities''), and 5005(a)(37) (definition of ''Restricted Securities''). As another example, Company Y, which also principally administers its business in a Restrictive Market, is applying to list on the Nasdaq Global Select Market and its post-offering Market Value of Listed Securities is expected to be $200,000,000. Since 25% of $200,000,000 is $50,000,000, which is higher than $25,000,000, pursuant to the requirements of the proposed rule, Company Y would be eligible to list based on a Firm Commitment Offering in the U.S. to Public Holders that will result in gross proceeds of at least $25,000,000. Company Y would also need to comply with the other applicable listing requirements of the Nasdaq Global Select Market, including a Market Value of Unrestricted Publicly Held Shares of at least $45 million. *See* Notice, *supra* note 3, at 9551–52; Nasdaq Rule 5315(f)(2)(C).

[31] *See* Notice, *supra* note 3, at 9552.

[32] *See id.*

[33] *See id.* Specifically, the Exchange states that 39 out of 113 Restrictive Market Companies that listed on Nasdaq through an IPO from January 1, 2015 to September 30, 2020 would not have qualified under the requirement in proposed Nasdaq Rule 5210(k)(i) because they had offering amounts of $25 million or less. According to Nasdaq, two of these companies were considered to be Restrictive Market Companies because they had at least 50% of the company's assets located in a Restrictive Market, and 37 met the definition because they had at least 50% of the company's revenues derived from a Restrictive Market. Of those companies thatwould not have qualified under the requirement in proposed Nasdaq Rule 5210(k)(i), twenty, or 51%, were cited for a compliance issue, which Nasdaq states is a significantly higher rate than other Restrictive Market Companies (16%). The Exchange also states that, during the same period, 25 out of 84 (or 30%) of Restrictive Market Companies that had a ratio of offering size to Market Value of Listed Securities of 25% or less failed to comply with one or more listing standards after listing, which, according to the Exchange, is a significantly higher non-compliance rate than for other foreign companies (11%) and other Restrictive Market Companies (21%) that had such listings. The Exchange also found that, during the same period, 35 Restrictive Market Companies would not have met either the $25 million offering size requirement or the 25% of the company's post-offering Market Value of Listed Securities requirement, and 18 of those companies were cited for a compliance concern. See id.

[34] *See id.*

[35] Nasdaq Rule 5110(a) (Business Combinations with non-Nasdaq Entities Resulting in a Change of Control) sets forth requirements applicable to a Company that engages in a business combination with a non-Nasdaq entity, resulting in a change of control of the Company and potentially allowing the non-Nasdaq entity to obtain a Nasdaq Listing.

[36] Nasdaq Rule IM–5101–2 (Listing of Companies Whose Business Plan is to Complete One or More Acquisitions) sets forth requirements applicable to a Company whose business plan is to complete an IPO and engage in a merger or acquisition with one or more unidentified companies within a specific period of time.

[37] Nasdaq Rule 5005(a)(45) defines ''Unrestricted Publicly Held Shares'' as Publicly Held Shares that are Unrestricted Securities. ''Publicly Held Shares'' means shares not held directly or indirectly by an officer, director or any person who is the beneficial owner of more than 10 percent of the total shares outstanding. *See* Nasdaq Rule 5005(a)(35). ''Unrestricted Securities'' means securities that are not subject to resale restrictions for any reason, including, but not limited to, securities: (i) Acquired directly or indirectly from the issuer or an affiliate of the issuer in unregistered offerings such as private placements or Regulation D offerings; (ii) acquired through an employee stock benefit plan or as compensation for professional services; (iii) acquired in reliance on Regulation S, which cannot be resold within the United States; (iv) subject to a lockup agreement or a similar contractual restriction; or (v) considered ''restricted securities'' under Rule 144. *See* Nasdaq Rules 5005(a)(46) and (37).

[38] The Exchange provides the following examples to illustrate the proposed rule. First, Company A is currently listed on the Nasdaq Capital Market and plans to acquire a company that principally administers its business in a Restrictive Market, in accordance with IM–5101–2. Following the business combination, Company A intends to transfer to the Nasdaq Global Select Market. Company A expects the post-business combination entity to have a Market Value of Listed Securities of $250,000,000. Since 25% of $250,000,000 is $62,500,000, which is higher than $25,000,000, pursuant to the requirements of the proposed rule, to qualify for listing the post-business combination entity must have a minimum Market Value of Unrestricted Publicly Held Shares of at least $25,000,000. The company would also need to comply with the other applicable listing requirements of the Nasdaq Global Select Market, including a Market Value of Unrestricted Publicly Held Shares of at least $45,000,000. *See* Notice, *supra* note 3, at 9552; Nasdaq Rule 5315(f)(2)(C). As another example, Company B is currently listed on Nasdaq Capital Market and plans to combine with a non-Nasdaq entity that principally administers its business in a Restrictive Market, resulting in a change of control as defined in Nasdaq Rule 5110(a), whereby the non-Nasdaq entity will become the Nasdaq-listed company. Following the change of control, Company B expects the listed company to have a Market Value of Listed Securities of $50,000,000. Since 25% of $50,000,000 is $12,500,000, which is lower than $25,000,000, pursuant to the requirements of the proposed rule, the listed company must have a minimum Market Value of Unrestricted Publicly Held Shares following the change of control of at least $12,500,000. The post-business combination company would also need to comply with all other applicable listing requirements of the Nasdaq Capital Market, including a Market Value of Unrestricted Publicly Held Shares of at least $5 million. *See* Notice, *supra* note 3, at 9552; Nasdaq Rule 5505(b)(3)(C).

[39] *See* Notice, *supra* note 3, at 9553. The Exchange states that it found that out of seven business combinations involving Restrictive Market Companies from 2015 through September 30, 2020, five would not have qualified under proposed Nasdaq Rule 5210(k)(ii) to have a minimum Market Value of Unrestricted Publicly Held Shares following the business combination of $25 million or 25% of the post-business combination entity's Market Value of Listed Securities, whichever is lower. The Exchange states that all five of these companies have been cited for a deficiency after the completion of their business combination. On the other hand, Nasdaq states that only one out of the two business combinations involving Restrictive Market Companies that would have qualified under proposed Nasdaq Rule 5210(k)(ii) during such period was cited for a compliance concern. *See id.*

combination entities would help to provide an additional assurance that there are sufficient freely tradable shares and investor interest to support fair and orderly trading on the Exchange when the target company principally administers its business in a Restrictive Market.[40]

D. Direct Listings of Restrictive Market Companies

The Exchange proposes to adopt new Nasdaq Rule 5210(k)(iii) to provide that a Restrictive Market Company that is listing its Primary Equity Security on Nasdaq in connection with a Direct Listing, as defined in Nasdaq Rule IM–5315–1,[41] would be permitted to list on: (i) The Nasdaq Global Select Market, provided that the Company meets all applicable listing requirements for the Nasdaq Global Select Market and the additional requirements of Nasdaq Rule IM–5315–1, or (ii) the Nasdaq Global Market, provided that the Company meets all applicable listing requirements for the Nasdaq Global Market and the additional requirements of Nasdaq Rule IM–5405–1.[42] On the other hand, proposed Nasdaq Rule 5210(k)(iii) would provide that a Restrictive Market Company would not be permitted to list on the Nasdaq Capital Market in connection with a Direct Listing, notwithstanding the fact that the Company may meet the applicable initial listing requirements for the Nasdaq Capital Market and the additional requirements in Nasdaq Rule IM–5505–1.[43]

The Exchange's rules currently set forth initial listing requirements for companies listing on the Nasdaq Global Select Market, Nasdaq Global Market, and Nasdaq Capital Market,[44] and additional listing requirements for Companies conducting a Direct Listing on such markets.[45] The Exchange states that it believes it is appropriate to permit Restrictive Market Companies to list through a Direct Listing on the Nasdaq Global Select Market or Nasdaq Global Market because such companies would be subject to the additional listing requirements set forth in Nasdaq Rule IM–5315–1 or IM–5405–1, respectively.[46] On the other hand, the Exchange states that it does not believe that the additional requirements for Direct Listing on the Nasdaq Capital Market, set forth in Nasdaq Rule IM–5501–1, are sufficient to overcome concerns regarding sufficient liquidity and investor interest to support fair and orderly trading on the Exchange with respect to Restrictive Market Companies.[47]

III. Proceedings To Determine Whether To Approve or Disapprove SR–NASDAQ–2021–007 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[48] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposal. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change to inform the Commission's analysis of whether to approve or disapprove the proposal.

Pursuant to Section 19(b)(2)(B) of the Act,[49] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposal's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.'' [50]

As discussed above, the Exchange is proposing to apply additional initial listing requirements to a Restrictive Market Company listing on the Exchange in connection with an IPO or a business combination and to prohibit a Restrictive Market Company from listing on the Nasdaq Capital Market in connection with a Direct Listing. The Commission has received one comment letter regarding the proposed rule change [51] and a response to comments from the Exchange.[52] Given the comment letter received and the recently filed response from the Exchange, the Commission is seeking additional public comment on the proposed rule change in order to determine whether it is consistent with the requirements of Section 6(b)(5) of the Act.

The Commission notes that, under the Commission's Rules of Practice, the ''burden to demonstrate that a proposed rule change is consistent with the Act and the rules and regulations thereunder . . . is on the self-regulatory organization ['SRO'] that proposed the rule change.'' [53] The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding,[54] and any failure of an SRO to provide this information may result in the Commission not having sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Act and the applicable rule and regulations.[55]

IV. Procedure: Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments with respect to the issues identified above, as well as any other concerns they may have with the proposal. In particular, the Commission invites the written views of interested persons concerning whether the proposed rule change is consistent with Section 6(b)(5) of the Act or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[56]

[40] *See id.*

[41] *See supra* note 22.

[42] *See* Notice, *supra* note 3, at 9553.

[43] *See id.*

[44] *See* Nasdaq Rules 5315, 5405, and 5505.

[45] *See* Nasdaq Rules IM–5315–1, IM–5405–1, and IM–5505–1.

[46] *See* Notice, *supra* note 3, at 9553.

[47] *See id.* As an example, the Exchange states that the Nasdaq Global Select Market and Nasdaq Global Market require a company to have at least 1,250,000 and 1.1 million Unrestricted Publicly Held Shares, respectively, and a Market Value of Unrestricted Publicly Held Shares of at least $45 million and $8 million, respectively. *See* Nasdaq Rules 5315(e)(2), 5315(f)(2)(C), 5405(a)(2), and 5405(b)(1)(C). In contrast, the Nasdaq Capital Market only requires a company to have at least 1 million Unrestricted Publicly Held Shares and a Market Value of Unrestricted Publicly Held Shares of at least $5 million. *See* Nasdaq Rules 5505(a)(2) and 5505(b)(3)(C); Notice, *supra* note 3, at 9553, n.34.

[48] 15 U.S.C. 78s(b)(2)(B).

[49] *Id.*

[50] 15 U.S.C. 78f(b)(5).

[51] *See* Letter from Jeffrey P. Mahoney, General Counsel, Council of Institutional Investors (February 18, 2021).

[52] *See* Nasdaq Response Letter, *supra* note 17.

[53] Rule 700(b)(3), Commission Rules of Practice, 17 CFR 201.700(b)(3).

[54] *See id.*

[55] *See id.*

[56] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Public Law 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a

Interested persons are invited to submit written data, views, and arguments regarding whether the proposed rule change should be approved or disapproved by June 11, 2021. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by June 25, 2021.

The Commission asks that commenters address the sufficiency of the Exchange's statements in support of the proposal, which are set forth in the Notice,[57] in addition to any other comments they may wish to submit about the proposed rule change.

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–NASDAQ–2021–007 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–NASDAQ–2021–007. 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–NASDAQ–2021–007 and should be submitted on or before June 11, 2021. Rebuttal comments should be submitted by June 25, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[58]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–10710 Filed 5–20–21; 8:45 am]

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particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[57] *See supra* note 3.

[58] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting; Cancellation

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 86 FR 26758, May 17, 2021.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, May 20, 2021 at 2:00 p.m.

CHANGES IN THE MEETING: The Closed Meeting scheduled for Thursday, May 20, 2021 at 2:00 p.m., has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: May 19, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–10935 Filed 5–19–21; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16934 and #16935; Kentucky Disaster Number KY–00085]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the Commonwealth of Kentucky

AGENCY: Small Business Administration.

ACTION: Amendment 2.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the Commonwealth of Kentucky (FEMA–4595–DR), dated 04/23/2021.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/27/2021 through 03/14/2021.

DATES: Issued on 05/14/2021.

Physical Loan Application Deadline Date: 06/22/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 01/24/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the Commonwealth of Kentucky, dated 04/23/2021, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Greenup

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–10704 Filed 5–20–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16920 and #16921; Washington Disaster Number WA–00092]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Washington

AGENCY: Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Washington (FEMA–4593–DR), dated 04/08/2021.

Incident: Severe Winter Storm, Straight-line Winds, Flooding, Landslides, and Mudslides.

Incident Period: 12/29/2020 through 01/16/2021.

DATES: Issued on 05/14/2021.

Physical Loan Application Deadline Date: 06/07/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 01/10/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Washington, dated 04/08/2021, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Cowlitz and the Puyallup Tribe of Indians.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–10703 Filed 5–20–21; 8:45 am]

BILLING CODE 8026–03–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36515]

Southwest Pennsylvania Railroad Company—Acquisition Exemption—Lines of Westmoreland County Industrial Development Corporation

Southwest Pennsylvania Railroad Company (SWP), a Class III rail carrier,[1] has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Westmoreland County Industrial Development Corporation (WCIDC) approximately 43.34 miles of rail line in Fayette and Westmoreland Counties, Pa., as follows: (1) From milepost 0.05 in Greensburg, Pa., through milepost 2.5 at County Home Junction and milepost 17.54 at the Westmoreland/Fayette County border near Everson to the end of track at milepost 23.8 in Bullskin, Pa., a distance of approximately 23.75 miles; (2) from the connection with Norfolk Southern Railway Company at milepost 3.9 in Greensburg, Pa., to milepost 0.0 at County Home Junction (milepost 2.5 on the first line above), a distance of approximately 3.9 miles; (3) the Yukon Branch from milepost 0.0 at Hunker, Pa., to the end of track at milepost 3.5 at Waltz, Pa., a distance of approximately 3.5 miles; (4) the Mt. Pleasant Sub from milepost 3.31 near Everson, Pa., to the end of track at approximately milepost 15.3 at Westmoreland Yard near Mount Pleasant, Pa., a distance of approximately 11.99 miles, including certain yard tracks and a 0.58-mile spur track at Westmoreland Yard;[2] and (5) the W&LE Connector from the connection with SWP at milepost 0.05 to the connection with Wheeling & Lake Erie Railway Company at milepost 0.25 near Everson, Pa., a distance of approximately 0.20 miles (the Lines). According to the verified notice, SWP has leased and operated the Lines since 1995.[3]

The verified notice states that SWP and WCIDC have executed a Purchase and Sale Agreement dated April 23, 2021, providing for SWP's acquisition of the Lines.

SWP certifies that its projected annual revenues as a result of this transaction will not result in SWP's becoming a Class II or Class I rail carrier but that its 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 the 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, SWP has filed a petition for waiver of the 60-day advance labor notice requirements. SWP'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.

SWP also certifies that the proposed acquisition and operation of the Lines does not involve a provision or agreement that may limit future interchange with a third-party connecting carrier.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than May 28, 2021.

All pleadings, referring to Docket No. FD 36515, 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 SWP's representative, Thomas J. Litwiler, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to SWP, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: May 17, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Tammy Lowery,

Clearance Clerk.

[FR Doc. 2021–10734 Filed 5–20–21; 8:45 am]

BILLING CODE 4915–01–P

[1] The verified notice states that SWP is a wholly owned subsidiary of Carload Express, Inc., a noncarrier holding company that also controls two other Class III rail carriers operating in Pennsylvania, Maryland, Delaware, and Virginia. *See Carload Express, Inc.—Continuance in Control Exemption—Delmarva Cent. R.R.,* FD 36072 (STB served Dec. 2, 2016).

[2] SWP states that it previously acquired the segment of the Mt. Pleasant Sub from milepost 0.0 in Broad Ford, Pa., to milepost 3.31 in *Southwest Pennsylvania Railroad—Acquisition Exemption—Laurel Hill Development Corp.,* FD 35584 (STB served Jan. 13, 2012).

[3] *See Sw. Pa. R.R.—Acquis. & Operation Exemption—Lines of Consolidated Rail Corp.,* FD 32692 (ICC served July 21, 1995); *Sw. Pa. R.R.—Lease & Operation Exemption—Lines of Westmoreland Cnty. Indus. Dev. Corp.,* FD 32737 (ICC served July 21, 1995; *Westmoreland Cnty. Indus. Dev. Corp.—Acquis. Exemption—Sw. Pa. R.R.,* FD 32767 (ICC served Nov. 3, 1995).

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21093]

EQT Infrastructure V Collect EUR SCSp and EQT Infrastructure V Collect USD SCSp—Acquisition of Control—First Student, Inc.; First Transit, Inc.; First Mile Square, LLC; First Canada ULC; and Transit Management of Dutchess County, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving and Authorizing Finance Transaction.

SUMMARY: EQT Infrastructure V Collect EUR SCSp and EQT Infrastructure V Collect USD SCSp, each a noncarrier acting by its manager EQT Fund Management S.à r.l. (jointly, Applicants or EQT), have filed an application to acquire control of First Student, Inc., First Transit, Inc., First Mile Square, LLC, First Canada ULC, and Transit Management of Dutchess County, Inc. (collectively, Target Carriers), which each hold interstate carrier operating authority in the United States, from FirstGroup plc (FirstGroup) and its subsidiary FirstBus Investments Ltd. (FirstBus), through a stock purchase agreement. The Board is tentatively approving and authorizing the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by July 6, 2021. If any comments are filed,

Applicants may file a reply by July 20, 2021. If no opposing comments are filed by July 6, 2021, this notice shall be effective on July 7, 2021.

ADDRESSES: Comments should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, send one copy of comments to EQT's representative: David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue NW, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet at (202) 245–0368. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: According to the application, Applicants form part of the fifth infrastructure investment fund established by EQT AB,[1] known as EQT Infrastructure V. (Appl. 4.) The fund is organized under the laws of Luxembourg and headquartered in Luxembourg City, Lux. (*Id.*) Applicants state that EQT currently does not directly or indirectly control any federally regulated motor passenger carriers operating in the United States. (*Id.* at 2.)

Under this transaction, EQT will acquire, through a stock purchase agreement, five motor passenger carriers from FirstGroup and its subsidiary FirstBus. (*Id.* at 1.) EQT states that FirstGroup is a public limited company organized under the laws of Scotland and headquartered in Aberdeen, Scot. (*Id.* at 5.) According to EQT, FirstGroup is an international transportation group that provides services in North America, where it has several operating divisions, which include the Target Carriers,[2] and in the United Kingdom. The stock agreement provides for the transfer of all outstanding shares of First Transit, Inc., and FirstGroup Investment Corporation (FirstGroup Investment),[3] a subsidiary of FirstGroup. (*Id.* at 1.) This transfer will place EQT in control of the following motor passenger carriers that each hold interstate carrier operating authority in the United States:

- First Student, Inc., which provides over 900 million student journeys per year to approximately 1,000 school districts, engages in interstate charter and special operations, and provides intrastate transportation in California, Washington, and Pennsylvania;
- First Transit, Inc., which transports 350 million passengers annually across more than 300 locations in North America and engages in intrastate transportation in the states of California, Colorado, and Rhode Island, and in the Washington, DC, metropolitan area;
- First Mile Square, LLC, which specializes in student transportation in the southeastern New York area and also conducts special and charter operations;
- First Canada ULC, d/b/a First Student Canada, which provides motor passenger services in Canada but also operates some cross-border services into the United States, primarily in the form of charter bus operations;
- Transit Management of Dutchess County, Inc., dba Dutchess County Mass Transit, which provides contract motor passenger transportation services in the Dutchess County, NY, area, and holds an intrastate permit authorizing it to provide motor passenger contract service within Dutchess County under contracts with the county. (*Id.* at 6–10.)[4]

EQT states that it has no current plans to materially alter the services that the Target Carriers provide, to weaken the existing management structure that is in place to ensure the safety and reliability of such services, or to make any significant changes that would adversely affect the Target Carriers' safety controls, employees, or customers. (*Id.* at 3.) Rather, EQT states, its goal is to continue providing safe and reliable motor passenger transportation to the public while improving the quality and efficiency of that transportation and enhancing the value of the Target Carriers. (*Id.* at 2–3.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges that result from the proposed transaction, and (3) the interest of affected carrier employees. Applicants have submitted the information required by 49 CFR 1182.2, to include information demonstrating that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded $2 million during the 12-month period ending in December 2020, *see* 49 CFR 1182.2(a)(5). (Appl. 11–14.)

EQT asserts that the transaction will not alter the adequacy or nature of the transportation currently provided by the Target Carriers. (*Id.* at 13.) According to the application, EQT plans to invest in improved digital technology, such as touring software and various in-bus technologies to track and improve driver performance and safety metrics, and to accelerate existing plans made by First Student, Inc., and First Transit, Inc., for the acquisition of electric vehicles and associated charging infrastructure. (*Id.* at 12.) EQT states that, through its investment in electrification of the Target Carrier fleets, it hopes to expedite a broader interest in the electrification and sustainability of motor vehicle fleets nationwide. (*Id.* at 13.) Further, EQT plans to retain the current management of each Target Carrier, including safety managers at both the corporate and local levels. (*Id.*) EQT also submits that the proposed transaction will have no adverse effect on the level of competition in any sector of the motor passenger business in which the Target Carriers operate because EQT does not control other federally regulated motor passenger carriers operating in the United States. (*Id.* at 3.)

As to the fixed charges that will result from the proposed transaction, EQT states that the cost of the proposed transaction is being financed by a combination of debt and equity capital. (*Id.* at 13.) EQT states that the Target Carriers each have a stable revenue stream that is more than adequate to service existing and anticipated debt. (*Id.*) EQT also states that the Target Carriers will have access to funds from EQT Infrastructure V (which has an estimated total fund size of approximately $18 billion) and other EQT funds and will have the backing of EQT AB's considerable capitalization. (*Id.*)

According to EQT, the transaction is not expected to adversely affect current employees of the Target Carriers. (*Id.* at 14.) EQT states that it has no plans for employee layoffs or reductions in staffing and does not plan to adversely change existing employee benefits. (*Id.*)

The Board finds that the acquisition of the Target Carriers as proposed in the application is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made

[1] Applicants state that EQT AB manages and advises a range of specialized investment funds and other investment vehicles that invest in companies across the world. EQT AB is not an applicant. (Appl. 3.)

[2] FirstGroup also controls four interstate passenger motor carriers that are not part of the proposed transaction. (Appl. 5, Ex. 3.)

[3] FirstGroup Investment is a Delaware corporation headquartered in Cincinnati, Ohio. (Appl. 5.) EQT states that FirstGroup Investment is a holding company that controls four of the Target Carriers, in addition to other noncarriers that are not subject to this application. (*Id.*)

[4] Additional information about the Target Carriers, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (Appl. 6–10, Ex. 1.)

on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by expiration of the comment period, this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at *www.stb.gov.*

It is ordered:

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective July 7, 2021, unless opposing comments are filed by July 6, 2021.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: May 17, 2021.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2021–10782 Filed 5–20–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 183 (Sub-No. 5X)]

Union Railroad Company, LLC—Abandonment Exemption—in the City of McKeesport, Allegheny County, PA

Union Railroad Company, LLC (URR), has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon approximately 5.4 miles of switching and terminal trackage known as the MCR Track in the City of McKeesport in Allegheny County, PA (the Line).[1] The Line traverses U.S. Postal Service Zip Code 15132.

URR has certified that: (1) It has provided no local common carrier traffic over the Line during the past two years; (2) no overhead traffic has moved over the Line and overhead traffic, if there were any, could be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7 and 1105.8 (notice of environmental and historic report), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,[2] the exemption will be effective on June 20, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues must be filed by May 28, 2021.[3] Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by June 1, 2021.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 10, 2021.

All pleadings, referring to Docket No. AB 183 (Sub-No. 5X), 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 URR's representative, Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Avenue NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

URR has filed a combined environmental and historic report that addresses the potential effects, if any, of the abandonment on the environment and historic resources. OEA will issue a Draft Environmental Assessment (Draft EA) by May 28, 2021. The Draft EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the Draft EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), URR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by URR's filing of a notice of consummation by May 21, 2022, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available at *www.stb.gov.*

Decided: May 17, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2021–10724 Filed 5–20–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36502]

Lubbock & Western Railway, L.L.C.—Lease and Operation Exemption With Interchange Commitment—BNSF Railway Company

Lubbock & Western Railway, L.L.C. (LWR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from BNSF

[1] URR states that the Line, which does not have mileposts, is generally bounded on the north by the Monongahela River; on the east by the McKeesport/North Versailles Township line; on the south by Lysle Blvd., 5th Avenue, Bowman Avenue, and/or East Pittsburgh McKeesport Road; and on the west by the Youghiogheny River.

[2] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (*i.e.,* subsidy or purchase) and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Filing fees for OFAs and trail use requests can be found at 49 CFR 1002.2(f)(25) and (27), respectively.

Railway Company (BNSF) and operate a line of railroad extending between milepost 330.100 and milepost 327.155 in Plainview, Tex., a portion of the Dimmit Spur subdivision (the Line).

The verified notice states that LWR and BNSF have entered into a lease agreement and that LWR will operate and provide all rail common carrier service to shippers on the Line.[1]

LWR certifies that its projected annual revenues from this transaction will not result in LWR's becoming a Class I or Class II rail carrier. Pursuant to 49 CFR 1150.42(e), which applies ''[i]f the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds $5 million,'' LWR posted the 60-day notice of the transaction required by 1150.42(e) at the workplaces of current BNSF employees on the Line, served the notice on the national offices of the labor unions for those employees, and certified to the Board on April 7, 2021, that it had done so.

As required under 49 CFR 1150.43(h)(1), LWR has disclosed in its verified notice that its lease agreement with BNSF contains an interchange commitment and has provided additional information regarding the interchange commitment as required by 49 CFR 1150.43(h).

The earliest this transaction may be consummated is June 6, 2021 (60 days after the certification under 49 CFR 1150.42(e) was filed).

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 May 28, 2021.

All pleadings, referring to Docket No. FD 36502, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, one copy of each pleading must be served on LWR's representative: Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to LWR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

[1] According to the verified notice, the Line adjoins an existing LWR-operated rail line at milepost 330.100. *See Lubbock & W. Ry.—Acquis. & Operation Exemption—W. Tex. & Lubbock Ry.*, FD 35932 (STB served June 5, 2015).

Board decisions and notices are available at *www.stb.gov.*

Decided: May 17, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Eden Besera,

Clearance Clerk.

[FR Doc. 2021–10757 Filed 5–20–21; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Enhancing Highway Workforce Development Opportunities Contracting Initiative

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The FHWA is announcing an initiative to permit, on an experimental basis, recipients and subrecipients of Federal funds for Federal-aid highway projects to utilize geographic, economic, or other hiring preferences or innovative contracting approaches not otherwise authorized by law that have the potential to enhance workforce development opportunities in the transportation construction industry, including for low-income communities. This initiative will be carried out as a pilot program for a period of 4 years (unless extended) under FHWA's existing experimental contracting authority and the legal authority in the Consolidated Appropriations Act, 2021. The purpose of this pilot program is to provide flexibility to utilize hiring preferences and innovative contracting approaches while evaluating the efficacy and equitable impact of such requirements on workforce development and employment opportunities, as well as their impact on competition and project delivery.

DATES: This pilot program is effective May 21, 2021. This pilot program will end May 21, 2025, unless it is extended.

FOR FURTHER INFORMATION CONTACT: For technical information: Mr. James DeSanto, Office of Preconstruction, Construction and Pavements, (614) 357–8515, *James.DeSanto@dot.gov*, or Mr. Patrick Smith, Office of Chief Counsel, (202) 366–1345, *Patrick.C.Smith@dot.gov*, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

Background

The Federal-aid highway program, administered by FHWA, supports State and local governments in the design, construction, and maintenance of the Nation's highway system and Federal-aid eligible public roadways. The program has helped to create and sustain long-term, good-paying jobs in the transportation construction industry. People of color, women, and other underserved groups, however, have historically experienced significant barriers to entry into the transportation construction industry. Further, FHWA-funded projects have prohibited local employment-preferences or workforce development opportunities for individuals residing in economically depressed communities in which projects are often located. While this prohibition was based upon maintaining competition in contract bidding, the consequence was that the workforce on federally-funded projects was often not necessarily representative of all communities where projects were located.

On January 20, 2021, President Biden issued Executive Order (E.O.) 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.'' This E.O. provides that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Accordingly, FHWA is now committed to work to redress inequities that resulted from barriers to equal opportunity by announcing an initiative that could result in increased employment and workforce development opportunities for those who have historically been excluded from participation on federally-funded transportation projects.

In the past, FHWA has received requests from States and local agencies to allow the inclusion of local hiring contract requirements in their projects with the goal of improving workforce development and employment opportunities for their residents. As discussed in more detail below, FHWA historically disallowed such requirements out of concern for their

potential impact on competition. Generally, Federal law requires Federal-aid highway and roadway projects (apart from a few exceptions) to be awarded on the basis of competitive bidding. However, from 2015 to 2017, DOT conducted a contracting initiative with FHWA and the Federal Transit Administration (FTA) to evaluate the potential impacts to competition from local hiring contracting requirements, as discussed further below.

Today, FHWA announces this initiative to permit and evaluate geographic, economic, or other hiring preferences or innovative contracting approaches not otherwise authorized by law that have the potential to enhance workforce development opportunities in the transportation construction industry, including for low-income communities. This initiative can support programs that provide funding for existing training and registered apprenticeship programs, such as FHWA's On-the-Job Training (OJT) programs, authorized under 23 U.S.C. 140(b) and 23 CFR part 230, subpart A, or other similar programs. This initiative is needed to support local and other workers in overcoming barriers to obtaining successful, long term careers in the transportation construction industry.

Job Opportunity and Workforce Development

Despite training efforts by the States and industry, a survey conducted by the Associated General Contractors of America (AGC) of its members in 2015 found that more than 60 percent of construction firms across the country were struggling to fill open positions. *See* FHWA, Office of Innovative Program Delivery, Center for Accelerating Innovation, Every Day Counts, EDC–6 Innovations. (2021). *Strategic Workforce Development. https://www.fhwa.dot.gov/innovation/everydaycounts/edc_6/strategic_workforce_development.cfm.* A follow-up survey in 2018 by AGC provided similar results, with 80 percent of contractors reporting difficulty finding qualified craft workers to hire. *Id.*

FHWA has historically supported States' construction workforce development efforts through OJT programs authorized by 23 U.S.C. 140(b), and other training and education programs. FHWA requires full utilization of all available training and skill-improvement opportunities to assure the increased participation of minority groups and disadvantaged persons and women in all phases of the transportation construction industry. 23 CFR 230.107(b). FHWA also encourages States to provide supportive services to increase the effectiveness of OJT programs. *Id.* at 230.113.

In addition to OJT efforts, FHWA supports innovative and cost-effective means of leveraging relationships between project sponsors and State or local workforce development boards, where applicable, to improve training and skill-improvement opportunities and outcomes for all groups, including low-income communities and other under-represented individuals or populations. For example, FHWA's Every Day Counts (EDC) initiative encourages States to collaborate with the construction industry, workforce boards, educational entities, and others to identify, train, and place a skilled transportation construction workforce. *See https://www.fhwa.dot.gov/innovation/everydaycounts/edc_6/strategic_workforce_development.cfm.* States can leverage FHWA OJT Supportive Services funds with existing local programs to incorporate training that focuses on construction skills in which there are current or anticipated future workforce gaps.

FHWA has also supported innovative contracting approaches to workforce development, such as authorizing the Michigan Department of Transportation (MDOT), through Special Experimental Project No. 14 (SEP–14), to implement an OJT Voluntary Incentive Program. Participating contractors in southeastern Michigan that exceed their OJT goals earn bid incentives to be used when competing for future work on designated projects. *See* MDOT's SEP–14 work plan, available at *www.fhwa.dot.gov/programadmin/contracts/sep14mi171106.pdf.* MDOT staff emphasized to FHWA the importance of coordinating their program with members of Michigan's construction industry and attributed that coordination to program successes. MDOT reports the pilot program resulted in increases in apprenticeships, increases in program graduates, increased Equal Employment Opportunity compliance, and increases in contractor participation. MDOT is currently evaluating potential impacts to competitive bidding.

Based on the AGC surveys mentioned above, however, FHWA believes more can be done to further increase workforce development opportunities, by building from existing programs, such as OJT, or exploring new approaches, to improve fulfillment of successful, long-term careers in the transportation construction industry.

Legal Authority

The initiative set forth in this notice is authorized under Section 199B of the Consolidated Appropriations Act, 2021, Public Law 116–260, Dec. 27, 2020, 134 Stat 1182. Section 199B expressly authorizes DOT-assisted contracts under titles 49 and 23 of the U.S.C. to use geographic, economic, or any other hiring preference not otherwise authorized by law, provided that the grant recipient certifies the following:

(1) That except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the jurisdiction;

(2) that the grant recipient will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; and

(3) that any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program.

Accordingly, recipients and subrecipients using the application process for a pilot program described in this notice below must also include in their applications these required certifications from Section 199B of the FY 2021 Consolidated Appropriations Act.

The initiative described in this notice is also based on FHWA's authority for special experimental projects. In 1988, a Transportation Research Board (TRB) task force, comprising representatives from all segments of the highway industry, was formed to evaluate innovative contracting practices. This TRB task force requested that FHWA establish a project to evaluate and validate certain findings of the task force regarding innovative contracting practices, which are documented in Transportation Research Circular Number 386, titled, ''Innovative Contracting Practices,'' dated December 1991. In response, FHWA initiated SEP–14 pursuant to the authority granted to the Secretary, which now is codified at 23 U.S.C. 502(b)(2). Under SEP–14, FHWA has the flexibility to experiment with innovative approaches to contracting. FHWA continues to use this program to test and evaluate experimental contracting practices.

Interpretation of Competition Mandate

DOT has historically prohibited recipients and subrecipients from using

certain contracting provisions that do not directly relate to the bidder's performance of work in a competent and responsible manner. In August 2013, at DOT's request, the U.S. Department of Justice, Office of Legal Counsel (OLC) issued a memorandum opinion interpreting 23 U.S.C. 112. *See Competitive Bidding Requirements Under the Federal-Aid Highway Program,* 37 Op. OLC 33 (2013) (''2013 OLC opinion''). The 2013 OLC opinion is available at *http://www.justice.gov/olc/opinions.* The 2013 OLC opinion clarified that section 112 does not compel DOT's historic position with respect to contracting requirements that do not directly relate to the bidder's performance of work. Rather OLC concluded that section 112 provides the Secretary with discretion to permit other types of State or local requirements if they do not ''unduly limit competition.'' OLC explained that FHWA may reasonably determine that a State or local contracting provision does not unduly limit competition under Section 112 even if it may have the incidental effect of reducing the number of eligible bidders if it imposes reasonable requirements related to performance of the necessary work. OLC opinion, at 35.

Thus, DOT has discretion under 23 U.S.C. 112 to evaluate whether a State or local law or policy is compatible with the competitive bidding requirement under the statute. The process used to evaluate whether State and local requirements satisfy section 112's requirements is a matter of Agency discretion. OLC opinion, at 54.

Prior Contracting Initiative Pilot Program

On March 6, 2015, DOT published a notice in the **Federal Register** (March 6, 2015 Notice) announcing a pilot program allowing FHWA and FTA to permit recipients and subrecipients to utilize various contracting requirements that generally have been disallowed due to concerns about adverse impacts on competition. 80 FR 12257. The initiative was to be carried out as a pilot program for a period of 1 year using the experimental authorities of the respective agencies. The DOT stated it was interested in contracts that utilize a local or other geographic labor hiring preferences, economic-based labor hiring preferences (*i.e.,* low-income workers), and labor hiring preferences for veterans. *Id.,* at 12258. The purpose of this pilot program was to determine whether the use of such requirements ''unduly limit competition,'' as provided in the 2013 OLC opinion.

The DOT extended the pilot program on March 17, 2016 (81 FR 14524) and January 18, 2017 (82 FR 5645). With the extension notices, DOT also amended the pilot program by adding certifications from participants as required in the 2016 and 2017 DOT Appropriations Acts. *See* Public Law 114–113, Dec. 18, 2015, 129 Stat 2242, at Sec. 192; and Public Law 115–31, May 5, 2017, 131 Stat 135, at Sec. 191.

On October 6, 2017, DOT published a notice in the **Federal Register** (2017 Notice) rescinding the pilot program announced in the March 6, 2015 Notice as well as a related FHWA and U.S. Department of Housing and Urban Development (HUD) Livability Local Hire Initiative. *See* 82 FR 46716. The 2017 notice also announced the withdrawal of a related Notice of Proposed Rulemaking (NPRM) published on March 6, 2015 (80 FR 12092).

During the two and a half years the Local Labor Hire Pilot Program (LLHPP) was in effect, FHWA approved SEP–14 workplans from 11 State and local agencies, encompassing 18 construction projects. Participants in the LLHPP committed to evaluating and reporting on the effects of the relevant contracting requirements on competitive bidding, effectiveness and efficiency of Federal funds, and integrity of the competitive bidding process. However, only half the participants provided reports to FHWA prior to program termination. From those reports, FHWA was unable to draw conclusions about the impacts of the local contracting requirements on these criteria.

In the LLHPP workplans submitted to FHWA, agencies proposed a range of local contracting requirements. In 11 projects, the agencies mandated the use of local labor, or making good faith efforts to do so, and in 3 of these cases agencies offered an hourly payment to the contractor for local labor hours. In the other seven projects, agencies offered financial incentives to the contractor rather than mandating local hiring. Half of the projects applied local contracting goals on the total number of contract labor hours, while the other half applied the requirements or goals only to newly hired employees. Goals or thresholds set by the agencies varied by whether the target was based on total contract labor hours (ranging from 10% to 20%) or based on new hiring (ranging from 20% to 75%). Agencies proposed hourly payments to contractors ranging from $3.50 to $20.00 per local labor hour, with total incentive not to exceed amounts ranging between $15,000 and $500,000, depending on project size.

At the time the LLHPP was rescinded, FHWA had received information from 5 of the 18 pilot projects about the impacts of the local-hiring contracting requirements on workforce outcomes. On four of the projects, agencies reported the number of local hires made by contractors were zero, two, six, and nine, respectively. In addition, one agency reported the impact as a percentage, reporting 17.4 percent of total contract labor hours were by local residents at the time of the report. In each of these cases, the outcomes reported to FHWA appeared to fall short of the numeric project goals. However, other benefits were realized from these collaborative efforts. For example, on Colorado's Central 70 project, a total of 156 employees were placed or received services through the employment platform created by the project partners.

In another case, based on a recently submitted report from Minnesota DOT (MnDOT), contractors reported the geographic and economic-based incentives on their projects improved job opportunities for local residents. However, one of the contractor participants cautioned that the MnDOT program could incentivize hiring for a single job and promote short-term work opportunities rather than a career. MnDOT concluded that planning, communication, marketing, education, and training are all critical for program success.

The reports FHWA received emphasized the importance of planning and coordination between project sponsor and stakeholders, such as workforce development agencies, pre-apprenticeship and registered apprenticeship programs, construction contractors, contractor associations, trade unions, community outreach groups, and others to achieve buy-in, participation, and success at meeting project goals.

In addition, sponsors identified best practices and challenges in project selection. Some sponsors found that goals on smaller contracts and subcontracts offered limited hiring opportunities due to the short duration of work. Two sponsors mentioned challenges union contractors faced meeting local hiring goals due to their inability to select workers based on the workers' residency. One sponsor found they needed to revise the geographic scope of their targeted area to ensure that a sufficient pool of workers would be available to meet their goal.

Based on this experience, FHWA is interested in additional data and information to assess the use of such requirements on job and workforce development opportunities that build

sustainable, long-term career success for target populations, and to assess potential impacts on competition and project delivery. In addition, while some States may be reluctant to incorporate geographic-based local preferences, many States may be interested in proposing other innovative methods to promote workforce development opportunities.

Current Pilot Program

FHWA is interested in permitting State and local recipients of FHWA financial assistance to utilize geographic, economic, or other hiring preferences or innovative contracting approaches not otherwise authorized by law that have the potential to enhance workforce development opportunities in the transportation construction industry.

FHWA's objective is to assess how such hiring preferences or innovative contracting approaches are used to support job opportunities and workforce development for those who may otherwise have significant barriers to entry while also assessing how the preferences or contracting approaches may affect competition and project delivery. Assessing impacts on competition may include assessing whether the hiring preferences or contracting approaches promote efficiency in connection with the letting of a particular contract, further the efficient and effective use of Federal funds in the long run, or protect the integrity of the competitive bidding process. FHWA is interested in obtaining this data and information for potential long-term use of contracting requirements under this initiative.

Examples of hiring preferences that may be utilized under this pilot program include local or other geographic labor hiring preferences, economic-based labor hiring preferences (*e.g.,* for low-income workers or economically disadvantaged communities), and other labor hiring preferences. Hiring preferences or contracting approaches may work in coordination with existing authorities designed to enhance workforce development, such as 23 U.S.C. 114(d) (requiring recipients, to the extent practicable, to encourage contractors to make a best faith effort to hire veterans on Federal-aid highway projects), 23 U.S.C. 140(d) (authorizing States to implement a preference for employment of Indians on projects near Indian reservations), and FHWA OJT programs that focus on the recruitment of minorities, women, and other disadvantaged groups. S*ee* 23 CFR 230.107, 230.111, and 230.113. Appropriations Act certifications, as discussed above, preclude FHWA from approving projects with requirements that would cause a contractor to displace its existing employees to satisfy the local contracting requirements.

FHWA will not approve projects for which recipients wish to alter the requirements of the State's approved Disadvantaged Business Enterprise (DBE) Program or in any way require DBE firms to have any specific geographic location. In addition, we note that even though hiring preferences may be utilized under this pilot program, State and local contracting agencies are responsible for ensuring that the establishment and implementation of its hiring preference is otherwise consistent with applicable Federal, State, and local laws.

This pilot program will be carried out for a period of 4 years from the date of publication of this notice. As such, FHWA is only interested in contracts that will be advertised during this time frame. Requests to participate in this pilot program should be made no more than 12 months prior to advertisement for bids.

Based upon receiving timely reports from participants, FHWA will monitor and evaluate whether hiring preferences or innovative contracting approaches positively impact workforce development and employment opportunities. FHWA will also assess what impact the requirements may have on competition and project delivery. While FHWA's current plan is to conduct this pilot program for 4 years, FHWA may extend or terminate this period at its discretion.

Pilot Program Requests

For contracts to be funded by FHWA, State and local recipients and subrecipients must request prior approval from FHWA to use a specific contracting requirement under SEP–14. To receive SEP–14 approval, States and local recipients and subrecipients would follow the normal process that includes submitting work plans to the appropriate FHWA Division Office. For more information on the SEP–14 process, please see: *http://www.fhwa.dot.gov/programadmin/contracts/sep_a.cfm.*

In developing requests to FHWA to use contracting requirements under SEP–14, recipients and subrecipients should address certain project specific factors that will help FHWA evaluate the use of the particular hiring preference for the proposed project. These factors include, but are not limited to, the following:

(1) Describe the project(s), including the amount of FHWA funding involved as well as the estimated total cost of the project(s).

(2) Describe the hiring preference or innovative contracting approach not otherwise authorized by law. For example, is the requirement an incentive or mandatory? Does it apply to all labor on the project, or only to new hires, and how will the preference comply with the certifications required by Section 199B of the FY 2021 Consolidated Appropriations Act? Does it apply to subcontractors? What is the estimated cost of applying the requirement?

(3) Describe how the project will or will not work as part of the recipient's or subrecipient's current FHWA-approved OJT Program, if applicable.

(4) Describe how the hiring preferences or innovative contracting approaches will impact workforce development and employment opportunities, and how this will be monitored and evaluated. Include one or more numeric goals of success, and describe what data will be collected to measure performance in achieving the goal(s).

(5) Describe how they will evaluate the effects of relevant contracting requirements on competition and project delivery. In doing so, the recipient or subrecipient should, at a minimum, explain how it will provide comparisons of bids and unit prices received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area not utilizing such requirements. Also explain the potential offsetting benefits resulting from the use of the requirement, which may be relevant if a reduction in the pool of bidders or an increase in unit prices becomes evident.

(6) Describe and quantify how the experimental contracting technique would promote the efficient and effective use of Federal funds in connection with the particular contract, when considered over the long-term for that agency's program, or by serving to protect the integrity of the competitive bidding process.

(7) Describe how recipients and subrecipients will evaluate the effects of relevant contracting requirements on participation by DBE contractors and subcontractors (for example, evaluating whether DBE project goals were attained and whether the requirements acted as a barrier to DBE firms based on the composition of DBE firms' workforce).

(8) Describe whether the proposed contracting requirement has been the subject of litigation or whether litigation surrounding the use of the requirement has been threatened.

(9) Provide the required certifications from Section 199B of the Consolidated Appropriations Act, 2021, Public Law 116–260.

FHWA requests previous SEP–14 LLHPP participants that intend to participate in this program conduct the evaluations and complete the reporting for earlier projects they committed to do in their previously approved SEP–14 LLHPP workplan.

For contracts involving the use of local and other preferences as described above, FHWA may approve, at the request of the recipient or subrecipient, the use of such requirements for a specific contract, a specific group of contracts, or on a more general programmatic basis.

Authority: 23 U.S.C. 502(b); Section 199B of the Consolidated Appropriation Act, 2021.

Issued in Washington, DC, on May 18, 2021.

Thomas D. Everett,

Executive Director, Federal Highway Administration.

[FR Doc. 2021–10785 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2021–0053]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on May 4, 2021, Durbin & Greenbrier Valley Railroad, Inc. (DGVR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 215, Railroad Freight Car Safety Standards, and 223, Safety Glazing Standards—Locomotives, Passenger Cars and Cabooses. FRA assigned the petition Docket Number FRA–2021–0053.

Specifically, DGVR requests relief from 49 CFR 215.203, *Restricted cars;* 215.303, *Stenciling of maintenance-of-way equipment;* and part 223, for eleven overage cars: Ten cabooses and one camp car. The relief is requested as the cars will be operated on the Cass Subdivision and the soon-to-be-reopened Greenbrier Subdivision and used to re-create historical scenes. DGVR states they will not be used in commercial freight or interchange service.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.

Communications received by July 6, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2021–10726 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2021–0054]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on May 4, 2021, Durbin & Greenbrier Valley Railroad, Inc. (DGVR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 215, Railroad Freight Car Safety Standards. FRA assigned the petition Docket Number FRA–2021–0054.

Specifically, DGVR requests relief from 49 CFR 215.203, *Restricted cars,* and 215.303, *Stenciling of maintenance-of-way equipment,* for 37 overage cars: Seven box cars, six flat cars, five skeleton log cars, seven hopper cars, six tank cars, three refrigerator cars, and three gondola cars. The relief is requested as the cars will be operated on the Cass Subdivision and the soon-to-be-reopened Greenbrier Subdivision and used to re-create historical scenes. DGVR states they will not be used in commercial freight or interchange service.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.

Communications received by July 6, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better

inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2021–10725 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Equitable Economic Recovery and Workforce Development Through Construction Hiring Pilot Program

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: The Federal Transit Administration (FTA) is announcing an initiative to permit FTA recipients and subrecipients to utilize geographic, economic, or other hiring preferences on FTA-funded construction projects. This initiative will be carried out as a pilot program for a period of four years (unless extended) under authority provided in the Consolidated Appropriations Act, 2021, the Federal grants management regulation, and a recent Office of Management and Budget Memorandum (March 19, 2021). The purpose of this pilot program is to provide flexibility to utilize hiring preferences to promote equitable creation of employment opportunities and workforce development activities, particularly for economically or socially disadvantaged workers, while evaluating the impact of such preferences on full and open competition and project delivery.

DATES: This pilot program is effective May 21, 2021. This pilot program will end May 21, 2025, unless it is extended.

FOR FURTHER INFORMATION CONTACT: Dana Nifosi, Deputy Chief Counsel, Federal Transit Administration, 1200 New Jersey Ave. SE, Washington, DC 20590, 202–366–4011.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

Background

FTA advances the mission of improving public transportation for America's communities, in part, by providing funding for the construction of public transportation facilities and the training and development of the public transportation workforce. These activities provide opportunities and access to construction careers, including for disadvantaged and under-represented individuals.

Today, FTA is announcing a new initiative, which will be conducted as a pilot program, to permit FTA recipients and subrecipients to utilize geographic, economic, or other hiring preferences on FTA-funded construction projects. This initiative implements a provision in the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, Dec. 27, 2020, 134 Stat 1182), which has been included in prior Appropriations Acts since Fiscal Year (FY) 2016, that authorizes the Secretary to permit States and local governments to implement geographic, economic, or other hiring preferences not otherwise authorized by law, subject to certain mandatory certifications that the recipient must make. Through this pilot program, FTA also will exercise flexibility recently granted to Federal agencies by the Office of Management and Budget (OMB) to support recipients and subrecipients in achieving equitable economic recovery from the COVID–19 public health emergency. Additionally, the pilot program advances Executive Order (E.O.) 13985, ''Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' issued on January 20, 2021, by supporting workers in overcoming barriers to obtaining successful, long term careers in the transit construction industry.

Job Opportunity, Equity, and Workforce Development

FTA supports equity in workforce development through several programs pursuant to 49 U.S.C. 5314(b). It funds human resource and training activities, including outreach programs to increase employment for veterans, women, individuals with disabilities, and minorities in public transportation activities. FTA also administers the competitive Innovative Public Transportation Frontline Workforce Development Program, which requires programs eligible for funding to undertake mandatory activities, including development of apprenticeships, on-the-job training, and instructional training; building partnerships with local public transportation operators, unions, workforce development boards, and State workforce agencies to identify workforce skill gaps; and addressing current and projected workforce shortages by developing partnerships with high schools, community colleges, and other community organizations. Notwithstanding such workforce training and development activities, barriers to employment in the transit construction industry remain, particularly for underserved communities.

General Prohibition on Exclusionary or Discriminatory Preferences in Contracting

In general, Federal law prohibits recipients and subrecipients of Federal funds, including under Chapter 53 of Title 49 of the United States Code, from using certain contracting provisions that do not directly relate to the bidder's performance of work in a competent and responsible manner. Specifically, 49 U.S.C. 5325(a) and 5323(h)(3), respectively, require FTA recipients to conduct all federally funded procurements in a manner that provides full and open competition as determined by the Secretary, and prohibit FTA grant funds from being used to support a procurement that uses an exclusionary or discriminatory specification. These provisions are similar to 23 U.S.C. 112(a), which requires FHWA to ensure that plans, specifications, and methods of bidding for highway construction undertaken or overseen by state transportation department must be effective in securing competition.

In addition, the Federal grants management regulation, 2 CFR 200.319, prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Examples of such provisions include local and other geographic-based labor hiring preferences.

Interpretation of Competition Mandate

DOT historically has prohibited recipients and subrecipients from using certain contracting provisions that do not directly relate to the bidder's performance of work in a competent and responsible manner, due to concern that such provisions unduly restrict competition. In August 2013, at DOT's request, the Department of Justice,

Office of Legal Counsel (OLC) issued a memorandum opinion interpreting 23 U.S.C. 112 (Section 112). *See Competitive Bidding Requirements Under the Federal-Aid Highway Program,* 37 Op. OLC 33 (2013) (2013 OLC opinion). The 2013 OLC opinion is available at *http://www.justice.gov/olc/opinions.* The 2013 OLC opinion clarified that Section 112, which as discussed above, is analogous to 49 U.S.C. 5325(a), does not compel DOT's historic position with respect to contracting requirements that do not directly relate to the bidder's performance of work. Rather OLC concluded that Section 112 provides the Secretary with discretion to permit other types of State or local requirements if they do not ''unduly limit competition.'' OLC explained that FHWA may reasonably determine that a State or local contracting provision does not unduly limit competition under Section 112 even if it may have the incidental effect of reducing the number of eligible bidders if it imposes reasonable requirements related to performance of the necessary work. 2013 OLC opinion, at 35.

Thus, DOT has discretion under 23 U.S.C. 112—and by extension 49 U.S.C. 5325(a)—to evaluate whether a State or local law or policy is compatible with the competitive bidding requirements of these statutes. The process used to evaluate whether State and local requirements satisfy statutory competition requirements is a matter of agency discretion. 2013 OLC opinion, at 54.

Prior DOT Contracting Initiative Pilot Program

On March 6, 2015, DOT announced in the **Federal Register** (80 FR 12257) an initiative to permit, on an experimental basis, FHWA and FTA recipients and subrecipients to utilize various contracting requirements that generally have been disallowed due to concerns about adverse impacts on competition. This initiative was carried out as a pilot program, the purpose of which was to evaluate whether local or other geographic labor hiring preferences, economic-based labor hiring preferences (*i.e.,* low-income workers), and labor hiring preferences for veterans unduly limit competition. For FTA, this pilot program applied to rolling stock procurements as well as contracting for construction projects.

DOT extended the pilot program on March 17, 2016 (81 FR 14524) and January 18, 2017 (82 FR 5645). With the extension notices, DOT also amended the pilot program by adding certifications from participants, as required in the FY 2016 and FY 2017 DOT Appropriations Acts, *see* Public Law 114–113, Dec. 18, 2015, 129 Stat 2242, at Sec. 192; and Public Law 115–31, May 5, 2017, 131 Stat 135, at Sec. 191.

On October 6, 2017, DOT published a notice in the **Federal Register** (2017 Notice) rescinding the pilot program, and announced the withdrawal of a related Notice of Proposed Rulemaking published on March 6, 2015 (80 FR 12092).

FTA received only one application under this pilot program, from the Los Angeles County Metropolitan Transportation Authority, for four rolling stock procurements. FTA granted that application with modifications. FTA received no applications with respect to construction projects because the DOT Appropriations Acts for FY 2015 and FY 2016 included a provision prohibiting FTA from enforcing the Federal regulatory prohibition on geographical preferences in procurements for construction hiring. *See* Public Law 113–235, Dec. 16, 2014, 128 Stat 2130, at Sec. 418; Public Law 114–113, Dec. 18, 2015, 129 Stat 2242, at Sec. 415. Thus, FTA recipients could utilize geographic preferences for construction hiring without obtaining FTA approval.

Current Pilot Program

I. Legal Authority

The initiative set forth in this notice is authorized under Section 199B of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260, Dec. 27, 2020, 134 Stat 1182), 2 CFR 200.319, and Office and Management Budget Memorandum, ''Promoting Public Trust in the Federal Government through Effective Implementation of the American Rescue Plan Act and Stewardship of the Taxpayer Resources'' (March 19, 2021) (OMB Memorandum) at *https://www.whitehouse.gov/wp-content/uploads/2021/03/M_21_20.pdf.* Section 199B authorizes DOT-assisted contracts under titles 49 and 23 of the United States Code to use geographic, economic, or any other hiring preference not otherwise authorized by law only if the grant recipient certifies the following:

(1) That except with respect to apprentices or trainees, a pool of readily available but unemployed individuals possessing the knowledge, skill, and ability to perform the work that the contract requires resides in the jurisdiction;

(2) that the grant recipient will include appropriate provisions in its bid document ensuring that the contractor does not displace any of its existing employees in order to satisfy such hiring preference; and

(3) that any increase in the cost of labor, training, or delays resulting from the use of such hiring preference does not delay or displace any transportation project in the applicable Statewide Transportation Improvement Program or Transportation Improvement Program. FTA's Annual Certifications and Assurances for FY 2021 include a provision that requires a recipient to make these required certifications if it will request that FTA approve the use of geographic, economic, or any other hiring preference not otherwise authorized by law on any contract or construction project to be assisted with an award from FTA. *See* FY2021 Annual Certifications and Assurances for FTA Grants and Cooperative Agreements, Category 19, at *https://www.transit.dot.gov/sites/fta.dot.gov/files/2021-01/FY21-certifications.pdf.*

By ''expressly . . . encourag[ing] geographic preference,'' Section 199B authorizes FTA to utilize geographic, economic, or any other hiring preference on FTA-assisted construction projects, despite the general Federal regulatory prohibition of the use of geographical preferences in the evaluation of bids or proposals. *See* 2 CFR 200.319 (regulatory prohibition does not apply ''where applicable Federal statutes expressly mandate or encourage geographic preference''). Similarly, FTA would not consider a hiring preference that complies with Section 199B, and therefore, is permissible under 2 CFR 200.319, to be ''an exclusionary or discriminatory specification'' prohibited under 49 U.S.C. 5323(h)(3). In addition, the OMB Memorandum, which is aimed at providing administrative relief to recipients, allows Federal awarding agencies to grant certain exceptions to recipients affected by the pandemic, as those agencies deem appropriate and to the extent permitted by law. The memorandum states that these exceptions apply not only to recipients with COVID–19 related Federal financial assistance awards, but also to recipients with assistance awards unrelated to COVID–19. In Section VII of Appendix 3 to the memorandum, ''Exemption of certain procurement requirements'', OMB specifically allows awarding agencies to waive the procurement requirements contained in 2 CFR 200.319(b) regarding geographical preferences, so long as awarding agencies require recipients to maintain appropriate records and documentation to support the charges against the Federal awards.

Pursuant to these authorities, FTA is establishing this pilot program to monitor and evaluate recipients and subrecipients of FTA financial assistance that utilize geographic, economic, or any other preference for construction hiring that traditionally has been prohibited on the basis that such preference would restrict competition. Under this pilot program, FTA will consider hiring preferences only in relation to construction contracts. It will not consider hiring preferences for rolling stock procurements.

II. Objective

FTA's objective is to permit recipients and subrecipients of FTA financial assistance to utilize geographic, economic, or other hiring preferences for construction contracts that will contribute to equitable economic recovery from the COVID–19 pandemic and create employment opportunities and promote workforce development on transit construction projects, particularly for economically or socially disadvantaged workers who may otherwise have significant barriers to entry to the transit construction industry. Through receipt of post-contract award reports from participants, described below, FTA will monitor and evaluate the extent to which approved hiring preferences result in equitable construction hiring and positively impact workforce development for disadvantaged workers. FTA also will assess what impact the preferences have on competition and project delivery.

Examples of hiring preferences that FTA will consider under this pilot program include local or other geographic labor hiring preferences, economic-based labor hiring preferences (e.g., for low-income workers or economically disadvantaged communities), and other labor hiring preferences. The Appropriations Act certifications discussed above preclude FTA from approving proposals with requirements that would cause a contractor to displace its existing employees to satisfy the local contracting requirements.

FTA will not approve proposals to alter the requirements of a state's approved Disadvantaged Business Enterprise (DBE) program or in any way require DBE firms to have any specific geographic location. Additionally, we note that even though hiring preferences may be utilized under this pilot program, State and local contracting agencies are responsible for ensuring that the establishment and implementation of their hiring preference are otherwise consistent with applicable Federal, State, and local laws.

III. Duration

FTA plans to carry out this pilot program for a period of four years from the date of publication of this notice. FTA will consider proposals relating only to procurements that will be advertised during this time frame. FTA may extend or terminate the pilot program at its discretion after public notice.

IV. Participation in Pilot Program

Recipients and subrecipients that intend to utilize geographic labor hiring preferences, economic-based labor hiring preferences, and other labor hiring preferences for construction contracts must receive approval from their FTA Regional Office prior to advertising contracts that include specifications with such preferences. Interested recipients and subrecipients must submit to their FTA Regional Office an application that addresses certain project specific factors that will help FTA evaluate the use of the particular hiring preference for the proposed project. These factors include, but are not limited to:

(1) Description of the construction project, including the type of transit facility that will be constructed, the estimated schedule for completion, the estimated total project cost, and the Federal share of funding.

(2) Description of the construction contracting opportunity, including the procurement method to be utilized and procurement schedule through contract award, the anticipated number and types of jobs that will be created by the contracting opportunity, and whether apprenticeships, including registered apprenticeships, and/or on-the-job training will be associated with the contracting opportunity.

(3) Description of the hiring preference proposed for the construction contracting opportunity. For example, is the hiring preference an incentive or mandatory? Does it apply to all labor on the project, or only to new hires? Will it apply to subcontractors?

(4) Description of the employment opportunities and impacts on workforce development the hiring preferences are anticipated to have, and how the recipient will evaluate the actual impact the approved hiring preferences have on equitable construction hiring and workforce development, particularly for disadvantaged workers. Include one or more numeric goals of success, and describe what data will be collected to measure performance in achieving the goal(s).

(5) Description of how the applicant will evaluate the effects of relevant contracting requirements on competition and project delivery. In doing so, the evaluation should include, at a minimum, comparisons of bids and unit prices received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area that do not utilize such requirements. If a reduction in the pool of bidders or an increase in unit prices is evident, explain the potential offsetting benefits resulting from the use of the requirement.

(6) Description and quantification of how the hiring preferences would promote the efficient and effective use of Federal funds in connection with the particular contract, when considered over the long term for the recipient or subrecipient's program, or by serving to protect the integrity of the competitive bidding process.

(7) Description of how the applicant will evaluate the effects of relevant contracting requirements on participation by DBE contractors and subcontractors (for example, evaluating whether DBE project goals were attained and whether the requirements acted as a barrier to DBE firms based on the composition of DBE firms' workforce).

(8) Description of whether the proposed contracting requirement has been the subject of litigation or whether litigation surrounding the use of the requirement has been threatened.

(9) Certify that the proposed contracting requirement complies with all applicable state and local laws.

(10) Provide the required certifications from Section 199B of the Consolidated Appropriations Act, 2021, Public Law 116–260.

Within fifteen business days of receipt of an application, FTA will conduct a preliminary review and advise the applicant regarding whether the application is complete or if additional information must be submitted. Within thirty days of receipt of a complete application, FTA will inform the applicant in writing whether the application is approved, approved with modifications, or denied. FTA approval will include reporting requirements, as addressed in Section V below.

V. Report Following Contract Award

No later than 120 days after contract award, unless an extension is granted in writing by the applicable FTA Regional Office, the recipient or subrecipient must submit to the FTA Regional Office a report that evaluates the effects of the

approved contracting requirement on competitive bidding and project delivery. This report should, at a minimum: (1) Provide comparisons of bids received for the projects utilizing the relevant contract requirements to other projects of similar size and scope and in the same geographic area that are not utilizing such requirements; (2) If a reduction in the pool of bidders was evident, explain the potential offsetting benefits resulting from the use of the requirement; (3) Describe how the approved contracting requirement lead to an increase in the effectiveness and efficiency of Federal funds for the project; and (4) Describe and quantify how the approved contracting requirement promoted the efficient and effective use of Federal funds in connection with the contract, when considered over the long term for the recipient or subrecipient's program, or by serving to protect the integrity of the competitive bidding process.

The recipient or subrecipient also must submit to the FTA Regional Office a report that evaluates the effects of the approved contracting requirement on job creation, equitable hiring, and workforce development. This report should, at a minimum: (1) Quantify total number of jobs created, by job category; (2) Summarize general statistics regarding where workers reside, including how many workers reside within same county as project; (3) Evaluate the actual impact the approved contracting requirement had on equitable construction hiring and workforce development, particularly for economically or socially disadvantaged workers; and (4) Evaluate the effects of relevant contracting requirements on participation by DBE contractors and subcontractors (for example, evaluating whether DBE project goals were attained and whether the requirements acted as a barrier to DBE firms based on the composition of DBE firms' workforce). Prior to approving the application, FTA will consult with the recipient or subrecipient to establish the deadline for this report, based on the size and complexity of the project. FTA will include the deadline for this report in the written approval. In general, the report will be due no later than three years after issuance of the Notice to Proceed for the contract, unless the recipient or subrecipient demonstrates that relevant data necessary for the required evaluations will not be available within the three-year timeframe.

A review committee comprised of FTA staff will evaluate the reports and reserves the right to seek clarification from any recipient about any statement that is made in a report. FTA also may request additional documentation or information to be considered during the review process. FTA or DOT may use information received from pilot program participants through these reports to support future regulatory changes, guidance and/or policies relating to utilization of hiring preferences in contracting.

Authority: Section 199B of the Consolidated Appropriation Act, 2021; 2 CFR 200.319.

Nuria I. Fernandez,

Deputy Administrator.

[FR Doc. 2021–10797 Filed 5–20–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2021–0019]

Request for Comments on the Renewal of a Previously Approved Information Collection: Seamen's Claims, Administrative Action and Litigation

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information collected will be used to evaluate injury claims made by seamen working aboard government-owned vessels. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before July 20, 2021.

ADDRESSES: You may submit comments identified by Docket No. DOT–MARAD–2021–0019 through one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to *www.regulations.gov* including any personal information provided.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Electronic Access and Filing

A copy of the notice may be viewed online at *www.regulations.gov* using the docket number listed above. A copy of this notice will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Yarrington, (202) 366–1915, Office of Marine Insurance, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Seamen's Claims, Administrative Action and Litigation.

OMB Control Number: 2133–0522.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The information is submitted by claimants seeking payments for injuries or illnesses they sustained while serving as masters or members of a crew on board a vessel owned or operated by the United States. The filing of a claim is a jurisdictional requirement for MARAD liability for such claims. MARAD reviews the information and makes a determination regarding agency liability and payments.

Respondents: Officers or members of a crew who suffered death, injury, or illness while employed on vessels owned or operated by the United States. Also included in this description of respondents are surviving dependents, beneficiaries, and/or legal representatives of the officers or crew members.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 15.

Estimated Number of Responses: 15.

Estimated Hours per Response: 12.5.

Annual Estimated Total Annual Burden Hours: 188.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

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By Order of the Maritime Administrator.

Dated: May 17, 2021.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–10692 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0068]

Request for Comments on the Renewal of a Previously Approved Information Collection—Quarterly Readiness of Strategic Seaport Facilities Reporting

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to renew an information collection. The information to be collected will be used by MARAD and Department of Defense (DoD) personnel to evaluate strategic commercial seaport readiness to prepare for contingency military deployment needs and make plans for the use of this capability to meet national emergency requirements. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments should be submitted on or before July 20, 2021.

ADDRESSES: You may submit comments identified by DOT Docket No. MARAD–2021–0068 through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590–0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Electronic Access and Filing

A copy of the notice may be viewed online at *www.regulations.gov* using the docket number listed above. A copy of this notice will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

FOR FURTHER INFORMATION CONTACT: Matthew Butram, Maritime Administration, at *matthew.butram@dot.gov* or at 202–366–1976. You may send mail to Matthew Butram, Office of Sealift Support, Room W25–218, Mail Stop 1, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Quarterly Readiness of Strategic Seaport Facilities Reporting.

OMB Control Number: 2133–0548.

Type of Request: Renewal of a previously approved information collection.

Abstract: Pursuant to E.O. 12656 and 49 CFR 1.81(10), 49 CFR part 33; the Maritime Administration (MARAD) issues, for emergency planning and preparedness purposes, a Port Readiness Plan (PRP) to each strategic commercial seaport (port) designated by the Commander, Military Surface Deployment and Distribution Command (SDDC). The PRP identifies specific facilities that DoD may need to support the deployment of Armed Forced of the United States or other emergency needs to promote the national defense. The collection of quarterly information is necessary to validate the ports' ability to provide PRP-delineated facilities to the DOD within the PRP-delineated timeline.

Respondents: Strategic Commercial Seaports who have been designated by the Commander, SDDC and who have been issued a PRP by MARAD.

Affected Public: Strategic Commercial Seaports.

Estimated Number of Respondents: 17.

Estimated Number of Responses: 4.

Estimated Hours per Response: 1.

Annual Estimated Total Annual Burden Hours: 68.

Frequency of Response: Quarterly.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

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By Order of the Acting Maritime Administrator.

Dated: May 17, 2021.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–10693 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2021–0032]

Request for Comments on the Renewal of a Previously Approved Information Collection: Procedures for Determining Vessel Services Categories for Purposes of the Cargo Preference Act

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used by the Maritime Administration to create a list of Vessel Self-Designations and determine whether the Agency agrees or disagrees with a vessel owner's designation of a vessel. It will use data submitted with re-designation requests to determine whether or not a vessel should be re-designated into a different service category. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before July 20, 2021.

ADDRESSES: You may submit comments identified by Docket No. DOT–MARAD–

2021–0032 through one of the following methods:

• *Federal eRulemaking Portal: www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.

• *Fax:* 1–202–493–2251.

• *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to *www.regulations.gov* including any personal information provided.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Electronic Access and Filing

A copy of the notice may be viewed online at *www.regulations.gov* using the docket number listed above. A copy of this notice will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

FOR FURTHER INFORMATION CONTACT: Jim Mead, (202) 366–5723, Office of Cargo and Commercial Sealift, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Procedures for Determining Vessel Services Categories for Purposes of the Cargo Preference Act.

OMB Control Number: 2133–0540.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The purpose is to provide information to be used in the designation of service categories of individual vessels for purposes of compliance with the Cargo Preference Act under a Memorandum of Understanding entered into by the U.S. Department of Agriculture, U.S. Agency for International Development, and the Maritime Administration. MARAD will use the data submitted by vessel operators to create a list of Vessel Self-Designations and determine whether MARAD agrees or disagrees with a vessel owner's designation of a vessel.

Respondents: Owners or operators of U.S.-registered vessels and foreign-registered vessels.

Affected Public: Business Owners for Profits.

Estimated Number of Respondents: 200.

Estimated Number of Responses: 200.

Estimated Hours per Response: .25.

Annual Estimated Total Annual Burden Hours: 50.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93.)

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By Order of the Maritime Administrator.

Dated: May 17, 2021.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–10696 Filed 5–20–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Credit Risk Retention

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, ''Credit Risk Retention.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: You should submit written comments by June 21, 2021

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

• *Email: prainfo@occ.treas.gov.*

• *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0249, 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.

• *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0249'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* 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.

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.

You may review comments and other related materials that pertain to this information collection [1] following the close of the 30-day comment period for this notice by the following method:

• *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0249'' or ''Credit Risk Retention.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link

[1] On March 17, 2021, the OCC published a 60-day notice for this information collection, 86 FR 14674.

to any comment listed at the bottom of the screen.

• For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

SUPPLEMENTARY INFORMATION:

Title: Credit Risk Retention.

OMB Control No.: 1557–0249.

Affected Public: Business or other for-profit.

Type of Review: Regular review.

Abstract: This information collection request relates to 12 CFR part 43, which implemented section 941(b) of the Dodd-Frank Act.[2] Section 941(b) of the Dodd-Frank Act required the OCC, Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), Securities and Exchange Commission (SEC), and, in the case of the securitization of any residential mortgage asset, the Federal Housing Finance Agency (FHFA), and the Department of Housing and Urban Development (HUD) (collectively, the agencies) to issue rules that, subject to certain exemptions: Require a securitizer to retain not less than 5% of the credit risk of any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells, or conveys to a third party; and prohibit a securitizer from directly or indirectly hedging or otherwise transferring the credit risk that the securitizer is required to retain under the statute and implementing regulations.

Part 43 sets forth permissible forms of risk retention for securitizations that involve the issuance of asset-backed securities. Section 15G of the Exchange Act also exempts certain types of securitization transactions from these risk retention requirements and authorizes the agencies to exempt or establish a lower risk retention requirement for other types of securitization transactions. Section 15G also states that the agencies must permit a securitizer to retain less than five percent of the credit risk of commercial mortgages, commercial loans, and automobile loans that are transferred, sold, or conveyed through the issuance of ABS by the securitizer if the loans meet underwriting standards established by the Federal banking agencies.[3]

Part 43 sets forth permissible forms of risk retention for securitizations that involve issuance of asset-backed securities, as well as exemptions from the risk retention requirements, and contains requirements subject to the PRA.

Section 43.4 sets forth the conditions that must be met by sponsors electing to use the standard risk retention option, which may consist of an eligible vertical interest or an eligible horizontal residual interest, or any combination thereof. Sections 43.4(c)(1) and 43.4(c)(2) specify the disclosures required with respect to eligible horizontal residual interests and eligible vertical interests, respectively.

A sponsor retaining any eligible horizontal residual interest (or funding a horizontal cash reserve account) is required to disclose: The fair value (or a range of fair values and the method used to determine such range) of the eligible horizontal residual interest that the sponsor expects to retain at the closing of the securitization transaction (§ 43.4(c)(1)(i)(A)); the material terms of the eligible horizontal residual interest (§ 43.4(c)(1)(i)(B)); the methodology used to calculate the fair value (or range of fair values) of all classes of ABS interests (§ 43.4(c)(1)(i)(C)); the key inputs and assumptions used in measuring the estimated total fair value (or range of fair values) of all classes of ABS interests (§ 43.4(c)(1)(i)(D)); the reference data set or other historical information used to develop the key inputs and assumptions (§ 43.4(c)(1)(i)(G)); the fair value of the eligible horizontal residual interest retained by the sponsor (§ 43.4(c)(1)(ii)(A)); the fair value of the eligible horizontal residual interest required to be retained by the sponsor (§ 43.4(c)(1)(ii)(B)); a description of any material differences between the methodology used in calculating the fair value disclosed prior to sale and the methodology used to calculate the fair value at the time of closing (§ 43.4(c)(1)(ii)(C)); and if the sponsor retains risk through the funding of an eligible horizontal cash reserve account, the amount placed by the sponsor in the horizontal cash reserve account at closing, the fair value of the eligible horizontal residual interest that the sponsor is required to fund through such account, and a description of such account (§ 43.4(c)(1)(iii)).

For eligible vertical interests, the sponsor is required to disclose: The form of the eligible vertical interest (§ 43.4(c)(2)(i)(A)); the percentage that the sponsor is required to retain as a vertical interest (§ 43.4(c)(2)(i)(B)); a description of the material terms of the vertical interest and the amount the sponsor expects to retain at closing(§ 43.4(c)(2)(i)(C)); and the amount of vertical interest retained by the sponsor at closing, if that amount is materially different from the amount disclosed ((§ 43.4(c)(2)(ii)).

Section 43.4(d) requires a sponsor to retain the certifications and disclosures required in paragraphs (a) and (c) of this section in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after all ABS interests are no longer outstanding.

Section 43.5(k) requires sponsors relying on the master trust (or revolving pool securitization) risk retention option to disclose: The material terms of the seller's interest and the percentage of the seller's interest that the sponsor expects to retain at the closing of the transaction (§ 43.5(k)(1)(i)); the amount of the seller's interest that the sponsor retained at closing, if that amount is materially different from the amount disclosed (§ 43.5(k)(1)(ii)); the material terms of any horizontal residual interests offsetting the seller's interest under § 43.5(g), § 43.5(h) and § 43.5(i) (§ 43.5(k)(1)(iii)); and the fair value of any horizontal residual interests retained by the sponsor (§ 43.5(k)(1)(iv)). Additionally, a sponsor must retain the disclosures required in § 43.5(k)(1) in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after all ABS interests are no longer outstanding (§ 43.5(k)(3)).

Section 43.6 addresses the requirements for sponsors utilizing the eligible ABCP conduit risk retention option. The requirements for the eligible ABCP conduit risk retention option include disclosure to each purchaser of ABCP and periodically to each holder of commercial paper issued by the ABCP conduit of the name and form of organization of the regulated liquidity provider that provides liquidity coverage to the eligible ABCP conduit, including a description of the material terms of such liquidity coverage, and notice of any failure to fund; and with respect to each ABS interest held by the ABCP conduit, the asset class or brief description of the underlying securitized assets, the standard industrial category code for each originator-seller that retains an interest in the securitization transaction, and a description of the percentage amount and form of interest retained by each originator-seller (§ 43.6(d)(1)). An ABCP conduit sponsor relying upon this section shall provide, upon request, to the Commission and the sponsor's appropriate Federal banking agency, if any, the information required under § 43.6(d)(1), in addition to the name and form of organization of each originator-

[2] Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. 111–203, 124 Stat. 1376 (July 21, 2010)).

[3] 15 U.S.C. 78o–11(c)(1)(B)(ii) and (2).

seller that retains an interest in the securitization transaction (§ 43.6(d)(2)).

A sponsor relying on the eligible ABCP conduit risk retention option shall maintain and adhere to policies and procedures to monitor compliance by each originator-seller which is satisfying a risk retention obligation in respect to ABS interests acquired by an eligible ABCP conduit (§ 43.6(f)(2)(i)). If the ABCP conduit sponsor determines that an originator-seller is no longer in compliance, the sponsor must promptly notify the holders of the ABCP, and upon request, the Commission and the sponsor's appropriate Federal banking agency, in writing of the name and form of organization of any originator-seller that fails to retain, and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit (§ 43.6(f)(2)(ii)(A)(1)); the name and form of organization of any originator-seller that hedges, directly or indirectly through an intermediate SPV, its risk retention in violation of the rule, and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit (§ 43.6(f)(2)(ii)(A)(2)); and any remedial actions taken by the ABCP conduit sponsor or other party with respect to such ABS interests (§ 43.6(f)(2)(ii)(A)(3)).

Section 43.7 sets forth the requirements for sponsors relying on the commercial mortgage-backed securities risk retention option, and includes disclosures of: The name and form of organization of each initial third-party purchaser (§ 43.7(b)(7)(i)); each initial third-party purchaser's experience in investing in commercial mortgage-backed securities (§ 43.7(b)(7)(ii)); other material information (§ 43.7(b)(7)(iii)); the fair value and purchase price of the eligible horizontal residual interest retained by each initial third-party purchaser, and the fair value of the eligible horizontal residual interest that the sponsor would have retained if the sponsor had relied on retaining an eligible horizontal residual interest under the standard risk retention option (§ 43.7(b)(7)(iv) and (v)); a description of the material terms of the eligible horizontal residual interest retained by each initial third-party purchaser, including the same information as is required to be disclosed by sponsors retaining horizontal interests pursuant to § 43.4 (§ 43.7(b)(7)(vi)); the material terms of the applicable transaction documents with respect to the Operating Advisor (§ 43.7(b)(7)(vii)); and representations and warranties concerning the securitized assets, a schedule of any securitized assets that are determined not to comply with such representations and warranties, and the factors used to determine that such securitized assets should be included in the pool notwithstanding that they did not comply with the representations and warranties (§ 43.7(b)(7)(viii)). A sponsor relying on the commercial mortgage-backed securities risk retention option is also required to provide in the underlying securitization transaction documents certain provisions related to the Operating Advisor (§ 43.7(b)(6)), to maintain and adhere to policies and procedures to monitor compliance by third-party purchasers with regulatory requirements (§ 43.7(c)(2)(i)), and to notify the holders of the ABS interests in the event of noncompliance by a third-party purchaser with such regulatory requirements (§ 43.7(c)(2)(ii)).

Section 43.8 requires that a sponsor relying on the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation risk retention option must disclose a description of the manner in which it has met the credit risk retention requirements (§ 43.8(c)).

Section 43.9 sets forth the requirements for sponsors relying on the open market CLO risk retention option, and includes disclosures of a complete list of, and certain information related to, every asset held by an open market CLO (§ 43.9(d)(1)), and the full legal name and form of organization of the CLO manager (§ 43.9(d)(2)).

Section 43.10 sets forth the requirements for sponsors relying on the qualified tender option bond risk retention option, and includes disclosures of the name and form of organization of the qualified tender option bond entity, a description of the form and subordination features of the retained interest in accordance with the disclosure obligations in section 43.4(c), the fair value of any portion of the retained interest that is claimed by the sponsor as an eligible horizontal residual interest, and the percentage of ABS interests issued that is represented by any portion of the retained interest that is claimed by the sponsor as an eligible vertical interest (§ 43.10(e)(1)–(4)). In addition, to the extent any portion of the retained interest claimed by the sponsor is a municipal security held outside of the qualified tender option bond entity, the sponsor must disclose the name and form of organization of the qualified tender option bond entity, the identity of the issuer of the municipal securities, the face value of the municipal securities deposited into the qualified tender option bond entity, and the face value of the municipal securities retained outside of the qualified tender option bond entity by the sponsor or its majority-owned affiliates (§ 43.10(e)(5)).

Section 43.11 sets forth the conditions that apply when the sponsor of a securitization allocates to originators of securitized assets a portion of the credit risk the sponsor is required to retain, including disclosure of the name and form of organization of any originator that acquires and retains an interest in the transaction, a description of the form, amount and nature of such interest, and the method of payment for such interest (§ 43.11(a)(2)). A sponsor relying on this section is required to maintain and adhere to policies and procedures that are reasonably designed to monitor originator compliance with retention amount and hedging, transferring and pledging requirements (§ 43.11(b)(2)(i)), and to promptly notify the holders of the ABS interests in the transaction in the event of originator non-compliance with such regulatory requirements (§ 43.11(b)(2)(ii)).

Sections 43.13 and 43.19(g) provide exemptions from the risk retention requirements for qualified residential mortgages and qualifying 3-to-4 unit residential mortgage loans that meet certain specified criteria, including that the depositor with respect to the securitization transaction certify that it has evaluated the effectiveness of its internal supervisory controls and concluded that the controls are effective (§§ 43.13(b)(4)(i) and 43.19(g)(2)), and that the sponsor provide a copy of the certification to potential investors prior to sale of asset-backed securities in the issuing entity (§§ 43.13(b)(4)(iii) and 43.19(g)(2)). In addition, §§ 43.13(c)(3) and 43.19(g)(3) provide that a sponsor that has relied upon the exemptions will not lose the exemptions if, after closing of the transaction, it is determined that one or more of the residential mortgage loans does not meet all of the criteria; provided that the depositor complies with certain specified requirements, including prompt notice to the holders of the asset-backed securities of any loan that is required to be repurchased by the sponsor, the amount of such repurchased loan, and the cause for such repurchase.

Section 43.15 provides exemptions from the risk retention requirements for qualifying commercial loans that meet the criteria specified in § 43.16, qualifying CRE loans that meet the criteria specified in § 43.17, and qualifying automobile loans that meet the criteria specified in § 43.18. Section 43.15 also requires the sponsor to disclose a description of the manner in which the sponsor determined the aggregate risk retention requirement for

the securitization transaction after including qualifying commercial loans, qualifying CRE loans, or qualifying automobile loans with 0 percent risk retention (§ 43.15(a)(4)). In addition, the sponsor is required to disclose descriptions of the qualifying commercial loans, qualifying CRE loans, and qualifying automobile loans (''qualifying assets''), and descriptions of the assets that are not qualifying assets, and the material differences between the group of qualifying assets and the group of assets that are not qualifying assets with respect to the composition of each group's loan balances, loan terms, interest rates, borrower credit information, and characteristics of any loan collateral (§ 43.15(b)(3)). Additionally, a sponsor must retain the disclosures required in §§ 43.15(a) and (b) in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after all ABS interests are no longer outstanding (§ 43.15(d)).

Sections 43.16, 43.17 and 43.18 each require that: The depositor of the asset-backed security certify that it has evaluated the effectiveness of its internal supervisory controls and concluded that its internal supervisory controls are effective (§§ 43.16(a)(8)(i), 43.17(a)(10)(i), and 43.18(a)(8)(i)); the sponsor is required to provide a copy of the certification to potential investors prior to the sale of asset-backed securities in the issuing entity (§§ 43.16(a)(8)(iii), 43.17(a)(10)(iii), and 43.18(a)(8)(iii)); and the sponsor must promptly notify the holders of the asset-backed securities of any loan included in the transaction that is required to be cured or repurchased by the sponsor, including the principal amount of such loan and the cause for such cure or repurchase (§§ 43.16(b)(3), 43.17(b)(3), and 43.18(b)(3)). Additionally, a sponsor must retain the disclosures required in §§ 43.16(a)(8), 43.17(a)(10) and 43.18(a)(8) in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after all ABS interests are no longer outstanding (§ 43.15(d)).

Estimated Number of Respondents: 35 sponsors; 182 annual offerings per year.

Total Estimated Annual Burden: 2,835 hours.[4]

On March 17, 2021, the OCC published a 60-day notice for this information collection, 86 FR 14674. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2021–10799 Filed 5–20–21; 8:45 am]

BILLING CODE 4810–33–P

[4] This estimate appeared as 2,799 hours in the 60-day notice and has been corrected to 2,835 hours (86 FR 14674 (March 17, 2021)).

DEPARTMENT OF THE TREASURY

Notice and Request for Information—State Small Business Credit Initiative (SSBCI)

AGENCY: Departmental Offices, Treasury.

ACTION: Request for information.

SUMMARY: The State Small Business Credit Initiative (SSBCI) provides funds to States, Territories, and Tribal governments to enable these jurisdictions to support programs for small businesses. Specifically, beginning in FY 2021, the Department of the Treasury (Treasury) is authorized to provide up to $10 billion in support for small business capital and technical assistance programs as a response to the economic effects of the COVID–19 pandemic. Treasury invites the public to comment on the SSBCI program design and implementation in order to support new and existing small businesses. Responses may be used by Treasury to assist in developing program design and guidance. Responses may also be used to inform Treasury's allocation of technical assistance funding to states, territories, and Tribal governments, the Minority Business Development Agency (MBDA), and programs implemented directly by Treasury.

DATES: Responses must be received by June 4, 2021 to be assured of consideration.

ADDRESSES: Submit comments via *www.regulations.gov.* In general, comments received will be posted on *http://www.regulations.gov* without change, including any business or personal information provided. Comments received, including attachments and other supporting materials, will be part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Jeff Stout at (202) 622–2059 or *ssbci_information@treasury.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: This request for information offers States, Territories, Tribal governments, localities, community-based and other non-profit organizations, small businesses, researchers, financial institutions, and other interested individuals and entities the opportunity to provide information on effective approaches for the delivery of capital and technical assistance through SSBCI.

Background: SSBCI provides funding for two program categories: Capital access programs (''CAPs'') and other credit support programs (''OCSPs''). CAPs provide portfolio insurance for business loans by setting up loan loss reserve funds for participating financial institutions. OCSPs include, but are not limited to, collateral support programs, loan participation and guarantee programs, and venture capital and other venture financing programs.

SSBCI was originally created in the Small Business Jobs Act of 2010 to increase availability of credit for small business. It was funded at $1.5 billion and implemented by Treasury and states and territories from 2011 through 2017. Funds were allocated in all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands. SSBCI provided allocatees significant flexibility to design programs that met local market conditions. By the end of the program, participating jurisdictions had directed SSBCI funds to 152 small business programs with a wide range of models and strategies. State programs addressed the spectrum of small business financing needs, from loans for microbusinesses and equipment purchases for small manufacturers to equity capital for early stage technology. Approximately 69 percent of the funding supported lending or credit support programs and 31 percent supported venture capital programs. According to the program evaluation

report, state SSBCI programs supported nearly $8.4 billion in new capital in small business loans and investments by the end of 2015. Eighty percent of SSBCI transactions supported businesses with 10 or fewer full-time employees and nearly half the supported businesses were less than five years old. Through 2015, 42 percent of the 16,919 SSBCI transactions were with small businesses located in low-to-moderate income (LMI) census tracts. In several states, a successful relationship with community development financial institutions (CDFIs) resulted in higher percentages of loans in LMI areas.

As described in the SSBCI Program Evaluation (October 2016), available at *https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/ssbci-program-reports:*

- CAPs supported a high volume of very small loans: The median CAP loan size was approximately $14,800 and almost 47 percent of CAP loans supported businesses in LMI areas. CDFIs accounted for 65 percent of the 10,561 CAP transactions.
- Loan guarantee, loan participation, and collateral support programs supported larger transactions, with a median size of $300,000. On average, states used SSBCI funds to support 17.4 percent of each transaction, implying a leverage ratio of 5.75:1. Manufacturers were the most common business type, representing 17 percent of all non-CAP credit support transactions.
- Thirty-eight states directed approximately $450 million, or 31 percent of total SSBCI funds, to venture capital programs. Between 2011 and 2015, venture capital programs supported over 1,300 equity investments with $278 million in SSBCI funding, generating $3.1 billion in new investment. In most cases, states partnered with private investment funds or specialized non-profits (state-supported entities) with expertise to source, structure, close, and manage equity investments in small businesses. Venture capital programs targeted high-growth potential businesses in various stages of development: Pre-seed and proof-of-concept; seed-stage and early-stage; growth stage and later stage; and mezzanine and debt investments. About two-thirds of the transactions supported pre-seed and seed capital investments.

Additional information about the original 2010 round of SSBCI, including program evaluation reports is available at: *https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/archives.*

Section 3301 of the American Rescue Plan Act of 2021, Public Law 117–2 (ARPA), reauthorized SSBCI and provided $10 billon to implement the program. ARPA modified SSBCI in a number of ways, including the following:

(i) Separate Allocation for Tribal Governments. SSBCI provides for $500 million in allocations to Tribal governments in the proportion determined appropriate by the Secretary of the Treasury.[1]

(ii) Additional Allocations to Support Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals (SEDI business). SSBCI provides $1.5 billion in allocation to States, Territories, and Tribal governments for business enterprises owned and controlled by socially and economically-disadvantaged individuals.[2]

- SEDI business means a business that:
  - If privately owned, 51 percent is owned by one or more socially and economically-disadvantaged individuals;
  - if publicly owned, 51 percent of the stock is owned by one or more socially and economically-disadvantaged individuals; and
  - in the case of a mutual institution, a majority of the Board of Directors, account holders, and the community which the institution services is predominantly comprised of socially and economically disadvantaged individuals.
- Socially and economically disadvantaged individuals is defined by reference to section 8 of the Small Business Act (15 U.S.C. 637) and the regulations thereunder. This definition includes the following:
  - Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.
  - Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

(iii) Incentive Allocations to Support Business Enterprises Owned and Controlled by Socially and Economically Disadvantaged Individuals. SSBCI provides $1 billion to be allocated as an incentive for States, Territories, and Tribal governments that demonstrate robust support for SEDI businesses.[3]

(iv) Additional Allocations to Support Very Small Businesses. SSBCI provides for $500 million to be allocated to Very Small Businesses.

- Very Small Business is defined as a business with fewer than 10 employees; and may include independent contractors and sole proprietors.[4]

(v) Technical Assistance (TA). SSBCI provides that $500 million may be used to provide TA to certain businesses applying for SSBCI or other state or federal programs that support small businesses.

- Treasury may provide funds to states to carry out a TA plan to provide Very Small Businesses and SEDI businesses with financial advisory, legal, accounting services, either directly or by contract with priority given to SEDI businesses;
- Treasury may transfer funds to the Department of Commerce's MBDA to provide TA to SEDI businesses; and/or
- Treasury may contract with legal, accounting, and financial advisory firms with priority given to SEDI businesses to provide TA to SEDI businesses.[5]

How to Comment: This RFI is for information and planning purposes only and should not be construed as a solicitation or as an obligation on the part of Treasury. We ask respondents to address the Key Questions listed below. You do not need to address every question and should focus on those where you have views or relevant expertise. Please clearly indicate which questions you are addressing in your response. You may also provide detailed proposals outlining how States, Territories, and Tribal governments could use SSBCI, as well as examples. All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should only submit information that you wish to make publicly available.

Guidance for Submitting Documents: We ask that each respondent include the name and address of his or her institution or affiliation, and the name, title, mailing and email addresses, and telephone number of a contact person for the institution or affiliation, if any.

Key Questions:

1. What changes should Treasury make to the policy guidelines last updated in 2014 (available here: *https://*

[1] Section 3301(a)(1) of ARPA.

[2] Section 3301(b) of ARPA.

[3] Id.

[4] Section 3301(c) of ARPA.

[5] Section 3301(d) of ARPA.

home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/archives/archived-program-rules) to enable the use of SSBCI to expand access to capital for small businesses in the current economic environment? Responses should take into consideration the statutory requirements for CAPs and OCSPs in the Small Business Jobs Act and ARPA, and provide feedback consistent with those constraints.

a. Is guidance specific to Tribal governments needed? If so, what specific issues should this guidance address?

2. What changes should Treasury make to the policy guidelines last updated in 2014 (available here: *https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci/archives/archived-program-rules*) to enable use of SSBCI to promote access to capital for diverse businesses, including SEDI businesses and Very Small Businesses? Please provide specific examples.

a. What data should Treasury use in its allocation calculation based on the needs of SEDI businesses in States, Territories, and Tribal governments? Please provide specific examples.

b. What guidance should Treasury provide regarding identifying and serving SEDI businesses? Please provide specific examples.

c. How can Treasury ensure effective use of allocations to States, Territories, and Tribal governments to support Very Small Businesses, including non-employer businesses? Please provide specific examples.

3. How should Treasury ensure effective use of the TA allocation to support SEDI businesses' and Very Small Businesses' access SSBCI capital or other capital? Please provide specific examples.

a. How should Treasury encourage States, Territories, and Tribal governments to prioritize contracts to SEDI businesses to provide TA?

b. How and to what extent should Treasury work with MBDA to provide TA to SEDI businesses? Please provide specific examples.

c. For what purposes should Treasury directly contract with legal, accounting, and financial advisory firms to provide TA to SEDI businesses? Please provide specific examples.

4. What data should Treasury require from States, Territories, and Tribal governments in regular reporting on their performance and activities that would ensure compliance and provide meaningful information on results to inform the public, policymakers, and others?

5. Do you have any other comments on the implementation of SSBCI to improve outcomes in general, and particularly to serve underserved communities and groups and SEDI businesses?

Dated: May 14, 2021.

Jeffrey Stout,

Director, Office of Federal Program Finance.

[FR Doc. 2021–10697 Filed 5–20–21; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the Geriatrics and Gerontology Advisory Committee

AGENCY: Department of Veterans Affairs.

ACTION: Notice of Geriatrics and Gerontology Advisory Committee appointment.

SUMMARY: The Department of Veterans Affairs (VA), Office of Geriatrics and Extended Care, is seeking nominations of qualified candidates to be considered for appointment as a member of the Geriatrics and Gerontology Advisory Committee (herein-after in this section referred to as ''the Committee''). The Committee advises the VA Secretary and the Under Secretary for Health on all matters pertaining to geriatrics and gerontology.

DATES: Nominations of qualified candidates are being sought to fill vacancies on the Committee. Nominations for membership on the Committee must be received no later than 5:00 p.m. EST on June 30, 2021.

ADDRESSES: All nominations should be emailed to Marianne Shaughnessy, Ph.D., CRNP, to *Marianne.Shaughnessy@va.gov.*

FOR FURTHER INFORMATION CONTACT: Marianne Shaughnessy, Ph.D., CRNP, GGAC, by phone at (202) 407–6798 or by email at *Marianne.Shaughnessy@va.gov.* A copy of the Committee charter and list of the current membership can also be obtained by contacting Dr. Shaughnessy.

SUPPLEMENTARY INFORMATION: The Committee's areas of interest include but are not limited to: (1) Assessing the capability of VA health care facilities to respond with the most effective and appropriate services possible to the medical, psychological and social needs of Veterans facing the consequences of aging, serious illness or disability ; and (2) advancing scientific knowledge to meet those needs by enhancing geriatric care for older Veterans through geriatric and gerontology research, the training of health personnel in the provision of health care to older individuals, and the development of improved models of clinical services for older Veterans.

Membership Criteria and Qualifications: The Committee is comprised of 12 members in addition to ex officio members, each of whom have established interest and considerable vocation-related experiences bearing on health care for aging Veterans, including experience in areas such as: VA- and non-VA health systems, academic geriatric and gerontology programs, palliative medicine, home and community-based care, nursing home care, relevant policy issues, and grant-funded academic research.

The expertise required of GGAC members includes, but is not limited to, the following:

a. Familiarity or experience with clinical and health policies concerning the elderly; and/or

b. familiarity or experience with the partnerships between VA and health sciences academic programs; and/or

c. familiarity with the history of geriatrics in the VA and in the U.S., and the unique role that has been played in that evolution by the VA's Geriatric Research, Education, and Clinical Centers (GRECCs).

Membership Requirements: The Committee holds at least one face to face meeting in Washington, DC and conducts 4–5 site visits a year. The ideal candidate will be willing to travel 3–5 times per year to help the Committee fulfill its Chartered objectives.

The Committee's diverse membership is characterized by a range of backgrounds and knowledge sufficiently broad to provide adequate advice and guidance to the Secretary. VA strives to develop a Committee membership that includes diversity in military services, ranks, and deployments, military service, military deployments, working with Veterans, committee subject matter expertise, as well as diversity in race/ethnicity, gender, religion, disability, geographical background, and profession. We ask that nominations include information of this type so that VA can ensure diverse Committee membership.

Requirements for Nomination Submission: Nominations should be typed (one nomination per nominator). Self-nominations are acceptable. Nomination package should include:

(1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes which qualify the nominee for service in this capacity), and a statement from the

nominee indicating the willingness to serve as a member of the Committee;

(2) The nominee's contact information, including name, mailing address, telephone numbers, and email address;

(3) The nominee's curriculum vitae; and

(4) letters of recommendation are accepted, but not required; and

(5) a statement confirming that he/she is not a federally–registered lobbyist.

Individuals selected for appointment to the Committee shall be invited to serve a four-year term. Committee members will receive a stipend for attending Committee meetings, including per diem and reimbursement for travel expenses incurred.

The Department makes every effort to ensure that the membership of VA federal advisory committees is diverse in terms of points of view represented and the committee's capabilities. Appointments to this Committee shall be made without discrimination because of a person's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, or genetic information. Nominations must state that the nominee is willing to serve as a member of the Committee and appears to have no conflict of interest that would preclude membership.

Dated: May 17, 2021.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–10698 Filed 5–20–21; 8:45 am]

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VETERANS AFFAIRS DEPARTMENT

Reestablishment: Veterans' Family, Caregiver and Survivor Advisory Committee

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent.

SUMMARY: We are giving notice that the Secretary of Veterans Affairs intends to reestablish the Veterans' Family, Caregiver and Survivor Advisory Committee for a 2-year period. The Secretary has determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Jeffrey Moragne, Committee Management Office, Department of Veterans Affairs, Advisory Committee Management Office (00AC), 810 Vermont Avenue NW, Washington, DC 20420; telephone (202) 266–4660; or email at *Jeffrey.Moragne@va.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee ACT, notice is hereby given that the Secretary of Veterans Affairs intends to reestablish the Veterans' Family, Caregiver and Survivor Advisory Committee for 2 years from the filing date of the charter's reestablishment.

The Committee advises the Secretary of Veterans Affairs, through the Chief Veterans Experience Officer, Veterans Experience Office in support of the application of VA's customer experience principles to Veterans and their families, caregivers and survivors. The advice will be related to Veterans' families, caregivers, and survivors across all generations, relationships and Veteran status; the use, and where necessary possible expansion, of VA care, benefits, and memorial services by Veterans' families, caregivers and survivors; policies, regulations and administrative requirements related to the transition of Servicemembers from the Department of Defense (DoD) to enrollment in VA and the access to and use of all federal, state and local services that impact Veterans' families, caregivers and survivors; and factors that influence access to, quality of, and accountability for care, benefits and memorial services for Veterans' families, caregivers and survivors.

Dated: May 17, 2021.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–10649 Filed 5–20–21; 8:45 am]

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FEDERAL REGISTER

Vol. 86 Friday,

No. 97 May 21, 2021

Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 635

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries Management; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 635

[Docket No. 210510–0103]

RIN 0648–BI08

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries Management

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing to modify Atlantic Highly Migratory Species (HMS) bluefin tuna (bluefin) management measures applicable to the incidental and directed bluefin fisheries through an amendment to the 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP). Specifically, the proposed measures would make several changes to the Individual Bluefin Quota (IBQ) Program, including the distribution of IBQ shares to only active vessels, implementation of a cap on IBQ shares that may be held by an entity, and implementation of a cost recovery program. The proposed measures would also make changes to bluefin fisheries by discontinuing the Purse Seine category and reallocating that bluefin quota to other directed quota categories; capping Harpoon category daily bluefin landings; modifying the recreational trophy bluefin areas and subquotas; modifying regulations regarding electronic monitoring of the pelagic longline fishery as well as green-stick use; and modifying the regulation regarding permit category changes.

DATES: Written comments must be received by July 20, 2021. Public hearings and webinars associated with this rulemaking will be announced in a separate document.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2019–0042, by electronic submission. Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov/docket/NOAA-NMFS-2019-0042,* click the ''Comment'' icon, complete the required fields, and enter or attach your comments. Comments sent by any other method, to any other address or individual, or received after the close of the comment period, may not be considered by NMFS. All comments received are a part of the public record and generally will be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may also be submitted via *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.''

Copies of the supporting documents—including the draft environmental impact statement (DEIS), Regulatory Impact Review (RIR), Initial Regulatory Flexibility Analysis (IRFA), the Three-Year Review of the IBQ Program, and the 2006 Consolidated HMS FMP and amendments are available from the HMS website at *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species* or by contacting Tom Warren (*Thomas.Warren@noaa.gov*).

FOR FURTHER INFORMATION CONTACT: Tom Warren—(978) 281–9260 (*Thomas.Warren@noaa.gov*) or Karyl Brewster-Geisz—(301) 427–8503 (*Karyl.Brewster-Geisz@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

The Atlantic bluefin fisheries are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The 2006 Consolidated HMS FMP and its amendments are implemented by regulations at 50 CFR part 635. A brief summary of the background of this proposed rule is provided below. Additional information regarding bluefin management can be found in the DEIS accompanying this proposed rule, the 2006 Consolidated HMS FMP and its amendments, the annual HMS Stock Assessment and Fishery Evaluation (SAFE) Reports, and online at: *https://www.fisheries.noaa.gov/topic/atlantic-highly-migratory-species.*

In 2015, Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510; December 2, 2014) implemented substantial changes to the regulation of bluefin fisheries. Amendment 7 focused on regulating incidental catch of bluefin in the pelagic longline fishery and implemented the IBQ Program, but also made regulatory changes affecting the other bluefin fisheries. Amendment 7 measures were wide in scope and included: the IBQ Program; modification of bluefin allocations across all quota categories; gear restricted areas in the Atlantic and Gulf of Mexico; and reporting and monitoring requirements for both the incidental and directed fisheries.

Since the implementation of Amendment 7 in 2015, there have been new data that documented changing conditions in the directed and incidental bluefin fisheries, and suggestions from the public and HMS Advisory Panel regarding management of the bluefin fisheries. In Amendment 7, NMFS announced that it would conduct a formal evaluation of the IBQ Program after three years and consider changes to the Program in light of that evaluation. NMFS completed its Three-Year Review of the Individual Bluefin Quota Program (referred to hereafter as the ''Three-Year Review'') in 2019. The Three-Year Review found that the IBQ Program was successful in limiting bluefin bycatch in the pelagic longline fishery, and providing flexibility in the IBQ system; however, it is likely that the IBQ Program also contributed to reduced revenue and fishing effort during 2015 to 2017. Further, the Three-Year Review noted that a different method of IBQ share distribution may warrant consideration.

The principal changes in the directed fisheries have been the continued inactivity (or extremely low activity) of the purse seine fishery over the past 15 years, and the continuing evolution of the handgear fisheries, which are extremely dynamic. Currently, there are no purse seine vessels with Purse Seine category permits, and the last year a set was made in the purse seine fishery was in 2015. During the few years prior to Amendment 7, the purse seine fishery was operating at a minimal level. From 2005 through 2012 there was no purse seine fishing activity. In 2013 through 2015, only one Purse Seine category participant fished, making only a few sets, and accounting for only a small percentage of total annual bluefin landings each year (6, 5, and 4 percent, in 2013, 2014, and 2015, respectively). Furthermore, that participant fished pursuant to an Exempted Fishing Permit (EFP) from NMFS, to investigate and gather data on reducing discards in the purse seine fishery, with terms that

exempted the vessel activity from certain regulations. During the same period of time, and since 2015, the total catch from the handgear fisheries has been increasing, there have been periods of very high bluefin availability on the fishing grounds, and there has been public concern about perceived changes in the socioeconomics of the fishery. The socioeconomic changes in the fishery include increased participation, increasing availability of bluefin, market saturation, and curtailed fishing opportunities in other non-HMS directed fisheries pursued by many commercial fishermen.

As a result of the changes in the bluefin fishery, new information on the fisheries noted above (during the five-year period from 2015 to 2019), and the findings of the analyses in the Three-Year Review, in 2019 NMFS began formal consideration of changes to the management of Atlantic bluefin through the process of scoping, including development of an Issues and Options Paper for Amendment 13 to the 2006 Consolidated HMS FMP. During this public process, NMFS considered a range of issues and objectives, as well as possible options for future bluefin management. The management options presented were not intended to be comprehensive with respect to potential modifications to the regulations, but offered a basis for further discussion and refinement of the potential objectives and measures.

On May 21, 2019, NMFS published a Notice of Intent in the **Federal Register** that provided formal notice to the public that NMFS intended to prepare an environmental impact analysis; announced the availability of the Issues and Options Paper and the start of the public scoping process (with a comment period of May 21 through July 31, 2019); and solicited public comments (84 FR 23020). On May 22, 2019, NMFS published a notice that provided the dates and locations of 10 scoping meetings, including a webinar, pertaining to Amendment 13 (84 FR 23519). Also on May 22, 2019, NMFS conducted scoping during the spring HMS Advisory Panel meeting. In the notice, NMFS announced the availability of Draft Amendment 13 to the 2006 Consolidated HMS FMP (Draft Amendment 13), including a DEIS, Draft RIR, an IRFA, and a Draft Social Impact Analysis (see **ADDRESSES** for how to get a copy of Draft Amendment 13) and its proposed implementing regulations. Draft Amendment 13 contains a complete description and analysis of the range of alternatives analyzed. The preferred alternatives in Draft Amendment 13 are the measures proposed in this rule, described below. A description of the significant alternatives to the proposed measures is provided later in this preamble in the summary of the IRFA.

Proposed Measures

The objectives of this rulemaking are to: (1) Evaluate and optimize the allocation of U.S. bluefin quota among bluefin quota categories considering historical allocations and use, and recent fishery characteristics and trends, to provide U.S. fishing vessels with a reasonable opportunity to harvest the U.S. quota established by ICCAT, facilitate the ability for active HMS directed permit categories to harvest their full bluefin quota allocations, and facilitate directed fishing for species other than bluefin in the pelagic longline fishery while accounting for incidental bluefin catch; (2) Maintain flexibility of the regulations to account for the highly variable nature of the bluefin fisheries, and maintain fairness among permit/quota categories; (3) Continue to manage the Atlantic pelagic longline fishery consistent with the IBQ Program objectives in Amendment 7 and consistent with the conservation and management objectives of the 2006 Consolidated HMS FMP and its amendments, and consistent with all applicable laws; and (4) Modify the management of the pelagic longline fishery in response to the Three-Year Review and in response to important relevant prevailing trends (*e.g.,* declining fishing effort and revenue for target species).

The proposed measures reflect agency consideration of the Draft Amendment 13 objectives, the Issues and Options Paper, public input from scoping discussions and related written comments, and subsequent analysis in Draft Amendment 13. Draft Amendment 13 analyzes a variety of management alternatives designed to balance achievement of its diverse objectives. In response to public comment on this proposed rule and Draft Amendment 13, the final rule may modify the proposed measures or adopt different or additional alternatives that are not proposed in this rule but would fall within the scope of, or are a logical outgrowth of, the alternatives considered in this proposed rule. A description of the proposed management measures follows:

Pelagic Longline Fishery

Annual IBQ Share Determination

Under this proposed rule, NMFS would modify the IBQ Program by implementing a dynamic determination of IBQ shares. Instead of the existing method for designating IBQ shareholders as implemented by Amendment 7, this measure would annually distribute IBQ shares only to currently active vessels based on specific target species landings as the measure of fishing effort. Other aspects of the IBQ Program would remain the same as follows: An IBQ share is the percentage of the Longline category quota that is associated with an eligible vessel/permit, based upon the IBQ share formula and the relevant vessel history. A shareholder's IBQ allocation is the amount (in metric tons (mt) or pounds) that is distributed to a permitted vessel, based upon its relevant IBQ share and the annual Longline category bluefin quota. Vessels must meet two requirements to be eligible to receive IBQ shares: (1) The vessel must have had a valid Atlantic Tunas Longline category permit; and (2) the vessel must be deemed to be recently ''active.''

Specifically, this measure would annually define IBQ shareholders and percentage shares based upon each individual permitted vessel's fishing effort, represented by the total weight of each individual vessel's target species landings. In order to have a standardized method of characterizing fishing effort, only certain target species would count in the determination of IBQ shares, with the relevant species termed ''designated species.'' The designated species would be defined as swordfish, and yellowfin, bigeye tuna, albacore, and skipjack tunas, the species that are most frequently targeted by pelagic longline fishermen. Specifically, the measure of fishing effort would be the total weight of each individual vessel's designated species landings relative to the total amount, by weight, of designated species landings by the pelagic longline fleet. This list of designated species differs from the Amendment 7{XE ''Amendment 7''} designated species list by removing dolphin, wahoo, shortfin mako, porbeagle, and thresher sharks. Although dolphin and wahoo are targeted by some vessels with an Atlantic Tunas Longline permit, they are not among the most frequently targeted by pelagic longline fishermen. Furthermore, these species are not managed under the 2006 Consolidated HMS FMP, but are managed under the Fishery Management Plan for the Dolphin and Wahoo Fishery of the Atlantic (South Atlantic Fishery Management Council). Dolphin and wahoo comprise a relatively low portion (by weight) of the total landings (*i.e.,* swordfish, and yellowfin, bigeye tuna,

albacore, and skipjack tunas, including wahoo and dolphin), with wahoo representing one percent and dolphin representing six percent of the total, based on 2016 to 2018 logbook data. Further, it would be difficult for NMFS to compile and analyze the dolphin and wahoo data annually in an accurate and timely manner, because the data must be matched with vessels across separate databases. Certain shark species are not included in the list of designated species because, under current regulations, shortfin mako and porbeagle sharks cannot be landed by vessels with pelagic longline gear on board unless the sharks are dead at haulback. Additionally, ICCAT{XE ''ICCAT''} Recommendation 09–07 specifies that member countries should strongly endeavor to ensure that vessels flying their flag do not undertake a directed fishery for species of thresher sharks. Thus, these sharks are not among the species most frequently targeted by PLL fishermen and are not included in the designated species list.

The time period used for determination of eligible vessels would be the three most recent years (36 months) of available data. If, for example, the total amount of designated species landings by the pelagic longline fleet over the previous three years were 6,500,000 lb and a particular vessel accounted for 150,000 lb of designated species landings during that three-year period (*i.e.,* 2.3 percent of 6,500,000 lb) the vessel's IBQ share would be based upon that percentage. NMFS proposes to assign individual vessels into one of four IBQ share percentages rather than assign each vessel a ''customized'' share percentage. NMFS would assign individual vessels one of four assigned share percentages, determined annually based upon a vessel's individual percentage and the range of percentages for all the active vessels. The four assigned IBQ share percentages are based upon analysis of the range of individual vessel percentages (sorting by vessel percentage and calculating the 25th, 50th, 75th, and 100th percentiles of the vessel percentages), the number of vessels in each quartile, and the sum of the percentages in each quartile. For example, based on data from 2016 to 2018, the four assigned IBQ share percentages would be 2.09, 1.18, 0.64, and 0.12 percent, and a vessel with 2.3 percent of the total designated species landings would be assigned an IBQ share of 2.09 percent. A more detailed explanation of the mathematical steps that result in the proposed determination of IBQ shares is contained in the DEIS. In the development of a system to assign share percentages to individual vessels, NMFS determined that it would be better to assign individual vessels to one of four share percentage values based on quartiles, rather than assign each vessel a ''customized'' percentage. There were several reasons for this determination: (1) A system of four assigned share percentages is simpler for NMFS to implement accurately and would facilitate communication with the fishery; (2) designation of shares using quartiles eliminates very large and very small percentage shares, which are problematic. Under a customized system and using 2016 to 2018 data, the largest individual percentage share would be 3.11 percent and the smallest would be 0.002 percent. A shareholder with a very small individual percentage such as 0.002 percent may be distributed less than the requisite amount of IBQ{XE ''IBQ''} allocation{XE ''IBQ allocation''} under quarterly accountability (*e.g.,* 551 lb of GOM designated IBQ allocation). Further, for shareholders with the largest percentage shares, the incentives associated with IBQ allocations and the IBQ Program to reduce the likelihood of bluefin interactions may be eroded.

This system differs from the current IBQ share distribution system where vessels determined to be eligible to receive IBQ shares and the resulting annual IBQ allocation were those vessels that had a valid Atlantic Tunas Longline category permit (as of August 21, 2013) and were deemed to be ''active,'' defined as vessels that made at least one set using pelagic longline gear from 2006 through 2012 based on HMS logbook data. The formula used to assign IBQ shares to eligible vessels is based on the weight of designated species landings and the ratio of bluefin catch to designated species landings, and IBQ shares are assigned according to tiers. The Low tier receive a share equivalent to at least two bluefin (at 0.25 mt each), the Medium tier share is equivalent to three bluefin, and the High tier share is equivalent to six bluefin. Further, the current IBQ share distribution system is static, and does not reflect recent fishing activity.

Under this proposed measure, IBQ allocation would not be distributed to shareholders with permits that are in either an invalid or NOVESID permit status (*i.e.,* the permit has not been renewed, or is not currently associated with a vessel). Shareholders with permits in invalid or NOVESID status as of January 1 (when IBQ allocations are distributed to shareholders with permitted vessels), would be eligible to receive their percentage of the Longline category quota later that year if/when the relevant permit is renewed or associated with a vessel. New entrants joining the fishery subsequent to the annual determination of shareholders would have to lease IBQ allocation from other pelagic longline participants to participate in the fishery, but would be eligible shareholders the following year (based on their level of fishing effort), and would then be eligible to receive a percentage of the Longline category quota in that subsequent year. The timing of NMFS' receipt of finalized landings data is relevant to the precise three-year range of available data that would be utilized to document designated species landings. In other words, NMFS will utilize the most recent 36 months of available data (in contrast to data for particular calendar years). If NMFS transfers bluefin quota inseason from the Reserve category to the Atlantic Tunas Longline category (in accordance with the criteria for inseason transfers of bluefin quota under § 635.27(a)(8)) such bluefin quota distributions would be in equal amounts either to all qualified IBQ share recipients or to only permitted Atlantic Tunas Longline vessels with recent fishing activity (during the current or previous year), whether or not they are associated with IBQ shares.

Under this proposed measure, during the last quarter of each year, NMFS would notify Atlantic Tunas Longline permit holders via electronic methods (such as an email) and/or letter to inform them of their IBQ share, allocation, and the regional designations of those shares and allocations for the subsequent fishing year. This notification would represent the initial administrative determination (IAD) of the permit holder's IBQ share and allocation. An Atlantic Tunas Longline category permit holder may submit a written petition of appeal of the following aspects of the IAD: (1) Eligibility for quota shares based on ownership of an active vessel with a valid Atlantic Tunas Longline category permit combined with the required shark and swordfish limited access permits; (2) IBQ share amount; (3) IBQ allocation; (4) vessel's amount of designated species landings; and (5) assignment of target species landings to the vessel owner/permit holder. Appeals must be filed with the National Appeals Office (NAO) within 45 days after the date the IAD is issued, and will be governed by NAO rules of procedures at 15 CFR part 906.

NMFS permit records would be the sole basis for determining permit transfers. Documentation of legal landings of designated species during

the timeframe analyzed by NMFS would be via official NMFS logbook records or weighout slips for landings. Landings data are required to be submitted within 7 days of landing under the applicable regulations. Recognizing that late reporting could have occurred for a variety of reasons, however, NMFS is clarifying that it will consider ''documented'' landings for appeals purposes to be those reported within 60 days of landing. NMFS would count only those designated species landings that were landed legally when the owner had a valid permit.

Appeals based on landings data or permit history would be based on NMFS logbook data and permit records, and weighout slips (including verifiable sales slips, receipts from registered dealers, state landings records). No other proof of catch history would be considered. Photocopies of the written documents would be acceptable; NMFS may request the originals at a later date. NMFS would refer any submitted materials that are of questionable authenticity to the NMFS Office of Law Enforcement for investigation. Appeals based on hardship factors would not be considered. Consistent with most limited effort and catch share programs, hardship would not be a valid basis for appeal due to the multitude of potential definitions of hardship and the difficulty and complexity of administering such criteria in a fair manner. NMFS may utilize some bluefin quota from the Reserve category to accommodate permitted vessels that are deemed eligible for shares through the appeals process, to provide a permitted vessel an increased quota share.

This proposed measure would give separate consideration to participants in the Deepwater Horizon Oceanic Fish Restoration Project (OFRP). The Deepwater Horizon OFRP is a program conducted as a partnership between NOAA, the National Fish and Wildlife Foundation, and pelagic longline fishermen to restore damage caused by the Deepwater Horizon oil spill. The OFRP program began after Amendment 7, and was therefore not a consideration in the determination of IBQ shares in Amendment 7. More information about the Deepwater Horizon OFRP may be found at *https://www.nfwf.org/programs/deepwater-horizon-oceanic-fish-restoration-project.* Deepwater Horizon OFRP participants, who voluntarily do not fish with pelagic longline gear for set periods of time (months of ''Repose'' during January through June), would not be disadvantaged under this proposed measure. A proxy amount of effort would be utilized for participating vessels during the years that they participated in the Deepwater Horizon OFRP. The proxy amount of effort would represent an estimate of pelagic longline fishing effort that each participating vessel would have had if it were not participating as a partner in the Deepwater Horizon OFRP, *i.e.,* the average weight of designated species landings by a pelagic longline vessel in the Gulf of Mexico during the months of January through June (the months of the Repose) during the relevant years.

The proxy amount of effort would be added to the participating vessels' actual effort during the years of participation (in July through December). This proposed provision for Deepwater Horizon OFRP participants would only be necessary for a limited number of years. The Deepwater Horizon OFRP will conclude when its restoration goals are achieved (likely in approximately three to five years depending on participation levels). As such, the proxies for effort in dynamic determination of IBQ shares would only be needed for relevant years of data used to calculate IBQ shares. After the years of participation in the Deepwater Horizon OFRP are no longer part of the effort calculation, then the proxy effort level would no longer be used. NMFS is soliciting public comment on whether this proposed method for Deepwater Horizon OFRP vessels is appropriate, in the context of the proposed method of annual IBQ share determination.

Regional IBQ Designations

In conjunction with the dynamic share and subsequent allocation distribution measures, NMFS also proposes to modify regional Gulf of Mexico and Atlantic designations, while maintaining a cap on allowable bluefin catch from the Gulf of Mexico. Under the current IBQ Program established by Amendment 7, IBQ shares and subsequent associated allocation were designated as either ''Gulf of Mexico'' (GOM) or ''Atlantic'' (ATL) based on the geographic location of sets used in the determination of allocations. Only Gulf of Mexico allocation could be used to account for bluefin caught in the Gulf of Mexico, while either Atlantic or Gulf of Mexico allocation could be used to account for bluefin caught in the Atlantic. Amendment 7 allocations resulted in 35 percent of the total Longline category quota designated as GOM, and 65 percent designated as ATL. In other words, at most 35 percent of the total IBQ allocation could be caught in the Gulf of Mexico, although that quota could also be used in the Atlantic. The maximum amount was based upon the proportion of total pelagic longline sets in the Gulf of Mexico during the period 2006 through 2012. The purpose of setting a maximum percentage of IBQ that could be used in the Gulf of Mexico was to avoid increased effort in the Gulf of Mexico.

Under the proposed measure, regional designations of IBQ shares and subsequent allocations would be determined on an annual basis as part of the annual dynamic allocation process, and the accounting rules for the regional IBQ allocations would remain the same. Specifically, regional designations would be based on the location of the relevant pelagic longline fishing activity that took place in the three years used as the basis for annual determination of shares and subsequent allocations under the proposed measure described above (dynamic allocation based on designated species landings). If a vessel had 79,000 lb of designated species landings (during the relevant three-year period), with 67,000 lb from the Gulf of Mexico, and 12,000 lb from the Atlantic, the IBQ share designations for that vessel would be split 85 percent GOM and 15 percent ATL. Under this system, if a vessel does not receive GOM designated IBQ shares and resulting allocation (because the vessel had no designated species landings from the Gulf of Mexico during the previous three years), but wishes to fish in the Gulf of Mexico, they would need to lease GOM designated IBQ allocation initially, and then could receive GOM designated IBQ shares and resulting allocation for the following year.

The area designations at an individual vessel level described above are important because the total amount of effort (represented by designated species landings) by all pelagic longline vessels that fished in the Gulf of Mexico will determine the total amount of GOM-designated IBQ shares. For example, if the total amount of designated species landings fishery wide is 20,000,000 lb, and 15,000,000 lb are from the Atlantic and 5,000,000 lb are from the Gulf of Mexico, then the relative amounts of ATL and GOM designated IBQ shares would be 75 percent and 25 percent, respectively. The GOM-designated IBQ would be complemented by establishing a cap on the amount of bluefin catch in the Gulf of Mexico. The proposed measure would specify that the default GOM cap is 35 percent and cannot exceed 35 percent, the same percent as under Amendment 7. Although Amendment 7 noted the intent to control fishing effort in the Gulf of Mexico, the focus of these proposed measures is on limiting bluefin catch, consistent with the objectives of the IBQ

Program, and because fishing effort in the pelagic longline fishery has been declining for many years, and the dead discards of bluefin in the Gulf of Mexico have been low since 2015 (Three-Year Review of IBQ Program; Table 6.24).

NMFS proposes to implement a regulatory mechanism for adjusting the 35 percent default cap to values lower than 35 percent for all of the calendar year, or the remainder of it, as appropriate. Such a determination would be based upon consideration of the existing determination criteria used in making inseason or annual adjustments to quota, which include a wide range of criteria including consistency with the FMP objectives (§ 635.27(a)(8)). These considerations include (but are not limited to): (v) Effects of the adjustment on bluefin rebuilding and overfishing; (vi) Effects of the adjustment on accomplishing the objectives of the fishery management plan; and (vii) Variations in seasonal distribution, abundance, or migration patterns of bluefin. NMFS would notify the public of changes to the 35 percent default cap and publish any modification to the cap in the **Federal Register** and would specify the basis for any decreases to the cap.

During the process of the annual calculation of IBQ shares, if NMFS determines that the amount of GOM-designated IBQ shares (based on designated species landings) would be greater than the 35 percent (or lower) cap, NMFS would reduce the GOM-designated IBQ shares to equal the IBQ share cap in effect. The reduction in total GOM share percentage would be achieved through equal proportional reductions among IBQ shareholders with GOM designated IBQ shares across the four share percentages. The ATL shares would be increased in an analogous manner, so that the total share percentages add up to 100 percent. NMFS would notify affected permit holders of any reductions in their IBQ share percentage resulting from this adjustment. This adjustment would not be subject to appeal, because it is not a determination based on the data associated with an individual shareholder, but based upon the need to reduce the total amount of allocated IBQ across all shareholders with GOM designated shares.

For example, in a given year, if 38 percent of fishing effort based on designated species landings analyzed for the determination of annual allocations were from the Gulf of Mexico (*i.e.,* 38 percent of landings of swordfish, yellowfin, bigeye, albacore, and skipjack tunas) were from the Gulf of Mexico), only 35 percent of the IBQ allocation would be designated as GOM. NMFS would adjust the share percentages downward, equally across the four share percentages, to reflect the maximum amount of shares that can be issued for the Gulf of Mexico. In this example, each GOM IBQ share would be reduced by multiplying the share percent by 35/38, or 0.92; thus, a 2.1 percent GOM IBQ share would be reduced to 1.9 percent. The ATL shares would be increased in an analogous manner, so that the total share percentages add up to 100 percent.

Cap on IBQ Shares Held or Acquired

The Magnuson-Stevens Act requires that NMFS must ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges by establishing a maximum share that a privilege holder is permitted to hold, acquire, or use. Existing permit regulations limit the ownership/control of HMS permits to no more than five percent of vessels for which limited access permits have been issued (§ 635.4(l)(2)(iii)), which in effect established a maximum share for a privilege holder. Those regulations remain unchanged, but under this proposed rule, NMFS would cap the percentage of IBQ shares that an entity could hold or acquire at 25 percent of the total IBQ shares and the corresponding amount of IBQ allocation associated with the IBQ shares. The proposed cap is intended to limit acquisition of IBQ shares via acquisition of permits, or changes in the allocation of shares among active permit holders, to prevent a single entity from holding a disproportionate amount of either IBQ shares or allocations. An ''entity'' is defined in this context as an Atlantic Tunas Longline category permit holder where that holder is an individual, corporation, partnership, or other entity. A cap under this proposed measure would apply to the sum of shares or IBQ allocations an entity controls, whether the entity is associated with a single or multiple Atlantic Tunas longline permits.

Although IBQ shares are not severable from permits, and may not be sold, entities may be issued multiple Atlantic Tunas Longline category permits and transfer them among vessels. The maximum share amount would apply to accrual of shares through the ownership of multiple Atlantic Tunas Longline category permits. NMFS would enforce this restriction based on the best available information such as data submitted in support of permit and IBQ Program requirements. Based on current data, setting a cap at 25 percent of the total amount of IBQ shares would represent a level four times the current maximum level of IBQ shares held by a single entity (between five and six percent), and would set a maximum level that would preclude additional consolidation above that amount. The 25 percent cap would balance the need to address the Magnuson-Stevens Act requirement to cap shares with the need to provide flexibility for fishery participants. The 25 percent cap would address concerns about consolidation, which may not be fully addressed with a higher cap, and enable fishery participants to operate in a manner that allows bluefin bycatch to be accounted for. Further, it would allow for various business models, including cooperatives and limited consolidation that enhance efficiencies, to remain profitable and competitive in the international seafood market.

IBQ Program Dealer Reporting Requirements

This proposed rule would modify two aspects of the dealer reporting requirements for the IBQ Program. First, this measure would remove the existing requirement that any pelagic longline vessel owner/operator who discarded dead bluefin enter dead discard information from the trip by coordinating with the dealer and entering that trip's dead discard information into the Catch Shares On-line System via the dealer account. This existing requirement is redundant with another existing requirement that vessel operators must report bluefin dead discards while at sea through the VMS set report, which is integrated into the Catch Shares On-line System. The dealer would continue to be required to enter the data on bluefin landings into the Catch Shares On-line System via the dealer account.

Secondly, this proposed measure would eliminate the current requirement that vessel operators/owners enter the PIN associated with the vessel account to confirm that the landings report information entered into the Catch Shares On-line System by the dealer is accurate. The intent of the PIN requirement was to provide an opportunity for vessel operators to ensure accurate information regarding bluefin transactions with the dealer and correct accounting of bluefin in the Catch Shares On-line{XE ''IBQ''} System and IBQ vessel accounts. In practice, most vessel owners have not entered their PIN into the Catch Shares On-line System at the time of offloading. Vessel operators have instead provided their vessel's PIN to the dealer with whom they usually conduct business to enable the dealer to retain the PIN and

enter the number each time a bluefin landing (from that particular vessel) occurs, to streamline logistics and communication during offloading.

This proposed measure would be combined with a new email notification by NMFS via the Catch Shares On-line System (or a message within the System) that would inform the vessel owner when a dealer conducts a bluefin landings transaction with that vessel's IBQ account, to provide a means of vessel operator oversight of dealer transactions with their IBQ vessel account.

Measures Related to Electronic Monitoring (EM)

This proposed rule would require that the vessel operator mail the electronic monitoring system's hard drive(s) within 48 hours after the completion of every other trip (every second trip), instead of after each pelagic longline fishing trip. This requirement would reduce the amount of time and costs required of vessel operators as associated with the EM{XE ''EM''} Program. Currently, hard drives are not typically full of data at the completion of one trip, and there is adequate room for the data from more than one trip to be stored on a single hard drive. An exception to this requirement would be if the hard drive is at capacity after one trip, as indicated by the EM System; in that case, the vessel operator must mail the hard drive at the end of that trip. Vessel operators would need to ensure that hard drives have the capacity for the trip(s) they are departing on.

This proposed rule would also clarify the regulations to require installation of hardware, if necessary to mount and install video cameras at locations on vessels to obtain optimal views. Further, the proposed measure would allow NMFS, working in conjunction with the vessel owner/operator, to make relatively minor modifications to the vessel structure to mount cameras in locations that provide required views of the vessel and adjacent areas. For example, NMFS may request the installation of the rail camera in a particular location on the vessel's structure, or installation of hardware such as a boom on a structure near the vessel's rail for the purpose of obtaining a different camera angle necessary to adequately view where the gear and fish are hauled out of the water. A boom would likely be a customized piece of hardware that is fixed or movable (*e.g.,* extended or lowered prior to fishing activities starting). Currently, the rail camera is mounted on the vessel's existing structure at the rail or slightly inboard of the rail, and itypically provides only a partial view of the seaward area of the vessel as a result of the low camera angle (to the side of the vessel). Therefore, the current rail camera configuration usually provides a limited view of the seaward area of the rail where gear is hauled from the water, and where fish capture and some of the discard events occur. This proposed measure would improve the detection of fish (especially fish that are hooked, but not brought aboard the vessel) by the EM{XE ''EM''} System, and improve the accuracy of resulting data.

Finally, this proposed rule would require more specific fish handling procedures and the installation/placement of a measuring grid on deck, in view of one of the cameras. As instructed and specified by NMFS, the vessel crew would be required to place retained fish on a mat with grid lines or a grid painted on deck in view of the processing camera, so the video recording included images of the fish on the mat. The mat or grid would be a standardized size with lines of standard intervals. With the use of a grid measuring tool, size estimation would be less affected by camera placement and angle with respect to fish, and the estimation of size and species identification may be improved. Additionally, a standardized reference grid may facilitate the development and use of computer algorithms and automation of video analysis.

Cost Recovery Program

Cost recovery, a required element of limited access privilege programs under the Magnuson-Stevens Act, was not initially implemented at the start of the IBQ Program in 2015 in order to gather information about the operation of the fishery under the IBQ Program and reduce initial costs and uncertainty given the bycatch dynamic of the program. The Magnuson-Stevens Act provides NMFS the authority for recovering fees paid by limited access privilege holders of up to three percent of the ex-vessel value of fish harvested under the limited access privilege program to cover the incremental costs (incurred by NMFS) directly related to and in support of management, data collection and analysis, and enforcement activities for the program (*e.g.,* the IBQ Program).

Under this proposed rule, NMFS would implement a flexible cost recovery program. No fees would be charged if the costs of collecting the fees exceed estimated fees to be recovered. Annually, NMFS would estimate its incremental costs associated with the IBQ Program (including costs associated with the cost recovery program) and the total ex-vessel value of bluefin sold from the pelagic longline fishery (including bluefin caught with green-stick gear), and notify the public whether a cost recovery fee would be charged for the year. If NMFS determines the annual cost recovery fee is warranted, NMFS would notify the permit holders that landed bluefin, including those caught with green-stick gear (based on dealer landings data), of any fees to be charged. Permit holders would be billed based on the ex-vessel value of the bluefin purchased. Permit holders would pay the cost recovery fee through the Catch Shares On-line System website and the associated *pay.gov* link.

The incremental costs to NMFS of implementing the IBQ Program are principally costs associated with labor, both NMFS staff and contracted entities. The types of costs include those associated with IBQ Program oversight, customer service, database maintenance, computer programming (maintenance and development), the EM Program, data monitoring, preparation of fleet communications, providing status reports to the HMS Advisory Panel, preparation of **Federal Register** documents, and enforcement related activities. NMFS would estimate the incremental costs incurred to NMFS of implementing the IBQ Program on an annual basis, including an estimate of the costs of the cost recovery program itself (*i.e.,* the activities associated with the annual process of implementing the cost recovery program).

In the case of the IBQ Program, the relevant ex-vessel value is the value of bluefin landed, not the ex-vessel value of the targeted or designated species that are not managed under the IBQ Program, such as swordfish and yellowfin tuna, which comprise the majority of the value of the fishery. NMFS would determine the fee associated with each pelagic longline vessel that harvests bluefin, based on the total dressed weight of bluefin sold to dealers by a vessel and the total amount of fees that may be recovered fishery-wide. For example, if based on an ex-vessel price of $4.12 per pound, the total recoverable costs are $20,682 (not including NED landings) and the total pounds landed is 167,000, then the fee per pound would be $0.124.

Recoverable fees would be capped at three percent of the total ex-vessel value of bluefin harvested under the IBQ Program. If the estimated recoverable fees are similar to or less than the incremental costs of the Program, no cost recovery fee would be collected. Given the relatively small total ex-vessel value of bluefin landed by pelagic longline vessels, and the incremental

NMFS costs associated with the IBQ Program, NMFS anticipates that cost recovery fees would generally be three percent or less of the ex-vessel value of bluefin sold.

Annually, NMFS will determine whether a cost recovery fee is warranted, and if so, provide formal notice through the **Federal Register**. NMFS would calculate individual fees, notify Atlantic Tunas Longline category permit holders, and provide relevant information on the amount owed and instructions for payment through the Catch Shares On-line System and *pay.gov*. NMFS will also communicate with permit holders in the fishery to educate them about the process, and conduct oversight of collection of fees including follow-up and enforcement. Permit holders who fail to pay the fee or who are delinquent in payment would be subject to relevant non-compliance penalties, enforcement actions, and possible permit revocation.

Given the potential economic impacts of the annual cost recovery fee, and the importance of transparency, NMFS would prepare an annual report, made available to the public, which would summarize relevant fishery-wide information on the cost recovery program.

Modification of Bluefin Quota Category Allocation Percentages

This proposed rule would simplify the mathematical method used in the annual quota allocation process. Under current regulations, each quota category (including the Longline category) is annually allocated a percentage of the U.S. bluefin quota after 68 mt (*i.e.,* the historical 68-mt dead discard allowance, as described in Amendment 7) is subtracted from the baseline quota and allocated to the Longline category. This process was intended to have all bluefin quota categories contribute proportionally to 68 mt provided to the Longline category annually. This proposed rule would eliminate the two-step process and, instead, make slight revisions to the category allocation percentages.

For example, under the current regulatory formula, the percentage of the U.S. baseline quota for the Longline category is 8.1 percent, and once the 68 mt amount is included, it is 13.1 percent, in effect. The proposed rule would thus revise the Longline category percentage to 13.1 percent, and the other category allocation percentages would be slightly modified accordingly. For example, for the General category, instead of having an annual deduction of 32.1 mt (47.1 percent of 68 mt) and a baseline quota percentage of 47.1 percent, the General category would have a baseline quota percentage of 44.1 percent (and no deduction of 32.1 mt). In the same manner, the baseline Harpoon category quota would change from 3.9 percent to 3.7 percent of the total U.S. quota, the Purse Seine category quota would change from 18.6 percent to 17.6 percent, the Trap category quota would remain 0.1 percent, the Angling category quota would change from 19.7 percent to 18.6 percent, and the Reserve category quota would change from 2.5 percent to 2.4 percent. This methodology would apply regardless of the annual quotas. These category quotas would be further modified under this proposed rule, as described below in the Purse Seine category section. Note that the United States also receives an annual allocation of 25 mt from ICCAT for incidental catch of bluefin related to directed longline fisheries in the Northeast Distant gear restricted area (NED), which is defined at 50 CFR 635.2.

Purse Seine Category

Under this proposed rule, NMFS would discontinue the Purse Seine category through redistribution of Purse Seine category quota effective upon implementation of the Amendment 13 final rule. NMFS would remove purse seine from the list of authorized gears and remove other references in the regulations to the purse seine fishery, including references to Purse Seine category quota, permits, nets, sets, vessels, and participants. The Purse Seine category is, in effect, allocated 17.6 percent of the U.S. baseline bluefin quota (as discussed above), yet the purse seine fishery has been largely inactive over the past 15 years, and there are no longer any historical Purse Seine category participants actively fishing. There have been no landings from the purse seine fishery since 2015. One purse seine vessel fished in 2014 and 2015 under an exempted fishing permit. The intent of the exempted fishing permit was to determine if modification to the retention limit of the smaller size range bluefin (smaller than the target size range) would result in the reduction of discarded fish. All of the Purse Seine category participants have sold their vessels, likely along with purse seine gear and associated equipment, as they are customized to a vessel and would have been expensive to remove. Discontinuation of the Purse Seine category and reallocation of the quota upon implementation of Amendment 13 would provide additional quota to active fisheries that are, at times, quota-limited, increase the likelihood that more of the U.S. quota will be utilized, and address various types of uncertainty that result from the inactive status of the Purse Seine category.

Further, NMFS proposes to reallocate the Purse Seine category quota (which is currently allocated 18.6 percent of the quota) proportionally to the other directed bluefin quota categories (General, Angling, and Harpoon) and the Reserve category. Purse Seine category quota (a directed fishing category) would not be reallocated to the Longline or Trap categories that catch bluefin incidentally. The increase in percentages for each directed quota category would be based on the current percentages associated with each quota category, so that the size of the increase reflects the relative size of the current quota categories. For each category, the current and proposed quota percentages, respectively, are as follows: General category: 47.1 percent, 55.8 percent; Angling category: 19.7 percent, 23.4 percent; Harpoon category: 3.9 percent, 4.6 percent; and Reserve category: 2.5 percent, 3.0 percent. Under the currently-established and codified quota, the proposed bluefin category quotas that would result from reallocation from the Purse Seine category and reflect the proposed change to the mathematical method used in the annual quota allocation (described above) would be: General category 696.9 mt (55.8 percent of the overall quota), Angling category 291.5 mt (23.4 percent), Harpoon category 57.7 mt (4.6 percent), and Reserve category 37 mt (3 percent). The Longline and Trap category percentages would be those resulting from the proposed change to the mathematical method used in the annual quota allocation, described above: Longline category 163.5 mt (13.1 percent, versus current level of 8.1 percent), and Trap category 1.2 mt (0.1 percent rounded, versus current level of 0.1 percent).

As noted above, the Longline category allocation is intended to be used to account for incidental catch of bluefin. The IBQ Program balances incentives to avoid bluefin and reduce dead discards with providing flexibility to fish for target species and maintain profitability. Based on the Three-Year Review, it appears that the relative amount of IBQ allocation distributed, in combination with the flexibility for vessels to lease additional IBQ allocation through the IBQ Program were adequate for vessels to account for bluefin during directed fishing operations for target species. Specifically, the relative amount enabled vessels to account for bluefin landings and dead discards, as well as support a successful leasing market (not-withstanding the distributional

issues and costs associated with the Amendment 7 allocation method, noted in the Three-Year Review). Therefore, a substantive increase in the amount of Longline category quota through an increase in its percentage of the overall quota is not proposed. In fact, NMFS has sought ways to facilitate reasonable opportunities to catch the currently available Longline category quota (see, *e.g.,* 85 FR 18812; April 2, 2020) while maintaining incentives to avoid bluefin during directed fishing operations through maintenance of the Longline category quota at the relatively low level determined to be appropriate in Amendment 7. This approach not only is consistent with the objective of the IBQ Program (*i.e.,* accountability for bluefin landings and dead discards, and reducing levels of incidental catch from historical levels), but also ensures that the amount of IBQ allocated is at a level that maintains strong incentives for vessels to modify fishing behavior to avoid interactions with bluefin.

Angling Category

Under this proposed rule, NMFS would modify the current Angling category Trophy North subquota areas and allocations specified at 50 CFR 635.27(a)(1), by dividing the northern area into two zones: North and south of 42° N lat. (off Chatham, MA); these newly-formed areas would be named the Gulf of Maine trophy area and the Southern New England trophy area, respectively. The net result would be that the Trophy quota would be divided among four geographic areas (in the Atlantic and Gulf of Mexico) and each area would receive an equal amount of quota (*i.e.,* the Angling category trophy quota would be divided equally four ways).

To create the new trophy suballocation for the Gulf of Maine trophy area, NMFS would increase the allocation for trophy bluefin. Because the amount of school bluefin (27″–<47″) is limited in the codified regulations, and in compliance with the ICCAT bluefin recommendation to no more than 10 percent of the annual U.S. bluefin tuna quota, any increase to the trophy subquota would need to be balanced with an equivalent reduction of the subquota for large school/small medium bluefin subquota (47″–<73″), which is the remainder of the Angling category quota once the school bluefin subquota and trophy subquotas are subtracted. For example, referring to the current Angling category quota regulations, NMFS would increase the portion of the Angling category quota allocated for trophy bluefin from 2.3 percent to 3.1 percent. This would result in a minor decrease in the amount of allocation for large school/small medium bluefin (measuring 47–<73″). Creation of a Gulf of Maine area and an allocation equivalent to the allocations for the existing areas could provide additional opportunities for anglers fishing north of 42° N Lat. where bluefin are available in summer and fall, including those fishing on HMS{XE ''HMS''} Charter/Headboat-permitted vessels. In recent years the northern trophy area has closed between late May and early August, with the quota largely filled with bluefin caught off the states of New York and New Jersey, south of 42° N Lat.

Harpoon Category

Under this proposed rule, NMFS would set an overall Harpoon category daily retention limit of 10 commercial-sized bluefin per day or trip (*i.e.,* the combined limit of large medium (73″–<81″) and giant (81″ or greater) would be 10 fish), and would maintain the current regulations regarding retention of large medium bluefin (73″–<81″) (*i.e.,* the range of two (default) to four fish, adjustable through inseason action). For example, if the default limit of two large medium bluefin were in effect, as a result of the overall daily limit of 10 fish, a vessel would be limited to eight giant bluefin.

Current Harpoon category regulations limit the number of large medium bluefin that may be retained to two to four fish, with two fish as the default, but there is no limit on the number of giant bluefin that may be retained. This measure would set an overall limit on the combined number of bluefin (large medium and giant) that may be retained in order to extend Harpoon category fishing opportunities over time within the available quota (*i.e.,* extend the season) and among a larger number of Harpoon category participants. NMFS is soliciting public comment on this measure, including a particular aspect of this measure. The measure as proposed would not make a change to the current retention large medium bluefin limit (range). Currently, NMFS may set the limit of large medium bluefin within a range of two to four fish via inseason action. NMFS requests comment on whether the range of two to four large medium bluefin should be modified to a range of zero to four fish, as well as on whether there should be a range of zero to 10 commercial-sized bluefin per day or trip, that could be modified via inseason action following consideration of the determination criteria at 50 CFR 635.27(a)(8). For comparison, NMFS currently has the ability to use inseason authority to amend the General category daily retention within the range of zero to five fish per day/trip.

Permit Category Change Restrictions

This proposed rule would allow Atlantic tunas permit holders in the General, Harpoon, or Trap category, or Atlantic HMS permit holders in the Angling or Charter/Headboat category, to change permit categories any time during the fishing year, provided the vessel has not landed a bluefin. Current regulations only allow permit changes from 45 days after permit issuance. This measure would not allow vessels to land bluefin from multiple quota categories in a year, thereby preserving the objective of this regulation, but would give vessel owners more flexibility to change their permit type or correct an error in their selection of permit category. The majority of vessel owners that request NMFS to waive the current 45-day requirement did not fish, and are not attempting to circumvent the regulations and/or quota system. Requests for permit category changes are predominately made because the applicant, or someone obtaining the permit on the owner's behalf, made a mistake on the permit application, and/or did not fully understand the requirements associated with a particular permit type. NMFS may incur some administrative burden associated with verifying that vessels have not landed bluefin.

Green-Stick Gear by Pelagic Longline Vessels

NMFS issued a rule in 2008 that authorized green-stick gear for the harvest of Atlantic tunas (73 FR 54721, September 23, 2008). Green-stick gear was allowed to be used by vessels with longline gear on board. *See* 50 CFR 635.2 (defining green-stick gear and pelagic longline). Allowing the use of green-stick gear while pelagic longline gear was also onboard was intended to provide vessel operators flexibility to employ fishing strategies with multiple gear types to optimize their business in a highly dynamic fishery.

Under this proposed rule, NMFS would clarify retention and reporting requirements for bluefin caught with green-stick gear by vessels with Atlantic Tunas Longline category permits to allow the retention of one bluefin per trip (73'' or greater CFL) taken incidentally while fishing for other target species and with additional regulations applying to such trips. Vessels would be required to submit a VMS set report for each green-stick retrieval that interacts with bluefin and report information on the location of the

set and numbers and length of bluefin within 12 hours (in addition to the VMS reports for pelagic longline sets). This VMS requirement differs from the VMS requirement associated with the use of pelagic longline gear, which requires submission of a report after each pelagic longline set. Regardless of whether sets are made with green-stick gear or pelagic longline gear, vessels would be required to comply with HMS logbook requirements and comply with the IBQ Program requirements regarding accounting for bluefin using IBQ allocation, quarterly accountability, and other applicable regulations. Vessels would continue to be required to monitor the retrieval of longline sets with the EM System, and comply with other monitoring and reporting regulations that are triggered by the presence of pelagic longline gear. However, the use of EM Systems would not be required for haulback with green-stick gear or to record an image of a bluefin caught with green-stick gear, because catch of bluefin caught with green-stick gear are likely to be a rare event, and application of the EM requirement to green-stick gear would increase the complexity and cost of the EM Program.

Under current regulations, pelagic longline vessels must discard bluefin caught on green-stick gear instead of landing and accounting for them via the IBQ Program. The proposed rule would support the minimization of dead discards by allowing the incidental retention of one green-stick caught bluefin per trip. Requiring VMS set reporting, logbook reporting, and IBQ Program participation is consistent with the intent of the 2008 rule that authorized green-stick gear.

Minor/Technical Regulatory Changes

Amendment 13 proposes minor regulatory changes (such as minor corrections and clarifications; the removal or modification of obsolete cross-references; and minor changes to definitions and prohibitions) that would improve the administration and enforcement of HMS regulations. The corrections, clarifications, changes in definitions, and modifications to remove obsolete cross-references are consistent with the intent of previously analyzed and approved management measures. Under § 635.2, Definitions, abbreviations were added for Curved Fork Length, Northeast Distant Area, Bluefin Tuna, Electronic Monitoring and Individual Bluefin Tuna Program. A definition for Vessel Monitoring Plan was added, and the definition of Curved Fork Length was clarified.

Under § 635.23(a)(4) and (b)(3), which address the process for inseason changes to the BFT retention limits, the minimum 3-day period between filing an action with the Office of Federal Register and the effective date of the action would be eliminated to provide for additional flexibility, as warranted and supported. The 3-day period has been in regulations since at least 1999. This rule proposes to remove that minimum period to provide for greater flexibility in management response for the General category. The General category is very dynamic: fish may swim from Massachusetts to Virginia in three days, there is limited quota and seasonal allocations, and high and variable levels of fishing pressure. Given all of this, NMFS may need flexibility to more swiftly implement a measure that may provide additional opportunity (in the case of an increased trip limit), or take swift action to slow a catch rate (in the case of a lowered retention limit). NMFS will continue to consider each adjustment on a fact-specific basis, consistent with Administrative Procedure Act requirements and providing for as much notice as possible. Under § 635.27, the subquota period previously referred to as the ''January'' subquota period will be changed to ''January through March'' subquota period to reflect the actual duration of the January subquota period, which is not changing.

Request for Comments

NMFS is requesting comments on the proposed measures, alternatives, and analyses described in this proposed rule and contained in the DEIS, IRFA, and RIR. Written comments may be submitted via *http://www.regulations.gov* (see **DATES** and **ADDRESSES**). Comments may also be submitted at a public hearing (see Public Hearings below).

Public Hearings

Public hearings, which will be announced through a separate notice in the **Federal Register**, may be in person or via conference call, and will be held during the public comment period.

Classification

Pursuant to the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the proposed rule is consistent with the 2006 Consolidated HMS FMP and its amendments, other provisions of the Magnuson-Stevens Act, ATCA, 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.

Pursuant to the National Environmental Policy Act (NEPA), NMFS prepared a DEIS for this proposed rule that discusses the impact on the environment that would result from this rule. A copy of the DEIS is available from NMFS (see **ADDRESSES**). A Notice of Availability of the DEIS is publishing in the **Federal Register** on May 21, 2021. A summary of the impacts of the alternatives considered is described below.

Regulatory Flexibility Act

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

Section 603(b)(1) requires Agencies to describe the reasons why the action is being considered. NMFS is amending the 2006 Consolidated HMS FMP to address bluefin tuna management due to recent trends and characteristics of the bluefin fishery. Section 603(b)(2) of the RFA requires Agencies to state the objective of, and legal basis for, the proposed action. The objectives of this Amendment are: (1) Evaluate and optimize the allocation of U.S. bluefin quota among bluefin quota categories, considering historical allocations and use, and recent fishery characteristics and trends, to provide U.S. fishing vessels with a reasonable opportunity to harvest the U.S. quota established by ICCAT, facilitate the ability for active HMS directed permit categories to harvest their full bluefin quota allocations, and facilitate directed fishing in the pelagic longline fishery while accounting for incidental bluefin catch; (2) Maintain flexibility of the regulations to account for the highly variable nature of the bluefin fisheries, and maintain fairness among permit/quota categories; (3) Continue to manage the Atlantic pelagic longline fishery consistent with the IBQ Program objectives implemented by Amendment 7, consistent with the conservation and management objectives of the 2006 Consolidated HMS FMP and its amendments, and consistent with all applicable laws; and (4) Modify the management of the pelagic longline fishery in response to the Three-Year Review of the IBQ Program, and in response to important relevant

prevailing trends (*e.g.,* declining fishing effort and revenue for target species).

Section 603(b)(3) of the RFA requires Agencies to provide an estimate of the number of small entities to which the rule would apply. For RFA compliance purposes, NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS code 11411). NMFS considers all HMS permit holders to be small entities because they had average annual receipts of less than $11 million for commercial fishing. SBA has established size standards for all other major industry sectors in the United States, including the scenic and sightseeing transportation (water) sector (NAICS code 487210, for-hire), which includes charter/party boat entities. SBA has defined a small charter/party boat entity as one with average annual receipts (revenue) of less than $8.0 million.

Regarding those entities that would be directly affected by the preferred alternatives, the maximum annual revenue for any pelagic longline vessel between 2006 and 2016 was less than $1.9 million, well below the NMFS small business size standard for commercial fishing businesses of $11 million. In 2016, there were 280 Atlantic Tunas Longline category permits, and 85 vessels were actively fishing based on logbook records.

Other non-pelagic longline HMS commercial fishing vessels typically earn less revenue than pelagic longline vessels, and none have annual revenue of $11 million or more. Therefore, NMFS considers all Atlantic HMS commercial permit holders to be small entities (*i.e.,* they are engaged in the business of fish harvesting, are independently owned or operated, are not dominant in their field of operation, and have combined annual receipts not in excess of $11 million for all its affiliated operations worldwide). The other (non-Atlantic Tunas Longline) preferred commercial alternatives would apply to 2,721 General category permit holders, 3,769 Charter/Headboat category permit holders, 20 Harpoon category permit holders, and 34 seafood dealers that purchase bluefin (based on 2019 data). There are no Purse Seine category permits issued currently, although the five historical participants in the purse seine fishery have been annually allocated a portion of Purse Seine category bluefin quota based on their previous year's fishing activity, if any, and have been allowed to lease that portion through the IBQ Program to pelagic longline vessels, although it is not IBQ allocation.

NMFS has determined that the preferred alternatives would not likely directly affect any small organizations or small government jurisdictions defined under the RFA, nor would there be disproportionate economic impacts between large and small entities.

Section 603(b)(4) of the RFA requires Agencies to describe any new reporting, record-keeping and other compliance requirements. This proposed rule contains revised or new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. Public reporting burden for these collections of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, are estimated below (see Paperwork Reduction Act).

Under section 603(b)(5) of the RFA, Agencies must identify, to the extent practicable, relevant Federal rules which duplicate, overlap, or conflict with the proposed action. Fishermen, dealers, and managers in these fisheries must comply with a number of international agreements, domestic laws, and other fishery management measures. These include, but are not limited to, the Magnuson-Stevens Act, ATCA, the High Seas Fishing Compliance Act, the Marine Mammal Protection Act, the Endangered Species Act, NEPA, the Paperwork Reduction Act, and the Coastal Zone Management Act. This proposed action has been determined not to duplicate, overlap, or conflict with any Federal rules.

One of the requirements of an IRFA is to describe any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities. NMFS cannot establish differing compliance or reporting requirements for small entities or exempt small entities from coverage of the rule or parts of it because all of the businesses impacted by this rule are considered small entities and thus the requirements are already designed for small entities. NMFS did incorporate performance standards when developing several of the IBQ dynamic allocation alternatives. As described below, NMFS analyzed several different alternatives in this proposed rulemaking, and provided rationales for identifying the preferred alternatives to achieve the desired objectives. The alternatives considered and analyzed are described below.

Modifications to IBQ Share Eligibility, Distribution and Allocation Methods

Alternative A1, the No Action Alternative, would make no changes to the current method of determining IBQ share eligibility, and the distribution of IBQ allocations, including regional designations. This alternative would not result in any changes in the economic impacts to small entities associated with the IBQ Program under Amendment 7. Under the No Action Alternative there would continue to be the inefficiency associated with annual IBQ allocations that are neither used to account for bluefin catch, nor leased to other shareholders, which would be a minor, adverse impact.

Alternative A2 is composed of four sub-alternatives that consider various annual dynamic determination methods for allocating IBQ shares. Under these alternatives, IBQ shareholders would be determined annually, based on the application of eligibility criteria intended to define a pool of recently active vessels. As explained in DEIS section 2.1.1, the intent is to distribute IBQ shares and allocations to vessels that are active and that need to account for bluefin incidental catch, not to encourage leasing by inactive fishermen. However, to estimate and compare economic impacts, the average cost of leasing IBQ allocation is used in the analyses of the sub-alternatives. Under Sub-Alternatives A2a, A2b and A2c, participants in the Deepwater Horizon OFRP would have their fishing effort include a proxy amount of landings used in the calculation of their IBQ shares in years they participated in the project, to ensure that there are no negative impacts associated with voluntary participation in that restoration project.

Sub-Alternative A2a would define IBQ shareholders annually based on the relative number of hooks fished as the measure of fishing effort. The overall economic impact would be minor and beneficial. For most active IBQ shareholders, who are small business entities, the economic impact of this alternative would be positive. Some shareholders would have larger share percentages and some would have smaller share percentages compared to the No Action Alternative, but with more shareholders benefitting from this alternative. One adverse impact for shareholders may be a slightly reduced ability for business planning due to the potential annual variability in share percentages. It should be noted, however, that shareholders would be

aware that a substantive change in their amount of fishing effort may result in slight changes in their share percentage in the following year. Adverse impacts on a shareholder could be partially mitigated through leasing IBQ allocation. Such adverse impacts would only be partially mitigated because of the cost of leasing IBQ allocation. There would be a total of 97 defined shareholders based on the total number of vessels that submitted VMS bluefin reports from 2016 through 2018. Overall, there would be a net increase in IBQ allocation value. Based on the analysis of the data, 66 vessels would have IBQ allocations larger than compared to the No Action Alternative, and be in a better economic position with respect to the amount of IBQ allocation they have (expressed in terms of potential leases costs avoided, or leasing benefits accrued). Using a weighted average cost per pound of leased IBQ allocation from 2017 through 2019 of $1.70 per pound, the average lease value of IBQ allocation gained would be approximately $4,015 per shareholder with a range of $201 to $10,331. Thirty-one vessels would have IBQ allocations smaller when compared to the No Action Alternative, and would be in a worse economic position with respect to the amount of IBQ allocation they have. Using the same weighted average cost per pound of leased IBQ allocation of $1.70 per pound, the average lease value of IBQ allocation lost would be approximately $3,174 per shareholder with a range of $1,224 to $6,302. It should be noted that IBQ shares and allocations are subject to change each year (based on fishing effort/number of hooks fished), all active vessels would receive IBQ allocation, and the leasing market is likely to continue to function well, with a price similar to or lower than recent prices, because most vessel allocations would increase. Furthermore, the economic costs associated with reduced allocations would only be realized if shareholders need to lease IBQ allocation to account for bluefin catch in excess of their allocations. The most notable trend is that under dynamic allocation based on hooks, vessels generally would be distributed more IBQ allocation than under the No Action Alternative (with the exception of shareholders in the first quartile). The number of IBQ shareholders would be reduced from 136 to 97, and dynamic allocation would reduce dissatisfaction among active fishery participants that results from the current regulations under which a relatively large number of permit holders who are not active receive an annual IBQ allocation because they are IBQ shareholders (with a permitted vessel).

Sub-Alternative A2b would define IBQ shareholders annually based on the relative number of pelagic longline sets as the measure of fishing effort. The overall economic impact would be minor and beneficial. For most IBQ shareholders, who are small business entities, the economic impact of this alternative would be positive and similar to Sub-Alternative A2a. There would be 97 defined shareholders based on the total number of vessels that submitted VMS bluefin reports from 2016 through 2018. Overall, there would be a net increase in IBQ allocation value. Based on the data, 66 vessels would have IBQ allocations larger than compared to the No Action Alternative, and be in a better economic position with respect to the amount of IBQ allocation they have (expressed in terms of potential leases costs avoided, or leasing benefits accrued). Using $1.70 cost per pound (explained under Sub-Alternative A2a), the average lease value of IBQ allocation gained would be approximately $4,028 per shareholder with a range of $957 to $11,331. Thirty-one vessels would have IBQ allocations smaller when compared to the No Action Alternative, and would be in a worse economic position with respect to the amount of IBQ allocation they have. Using the same $1.70 cost per pound, the average lease value of IBQ allocation lost would be approximately $3,203 per shareholder with a range of $1,226 to $6,304. However, as with Sub-Alternative A2a, it should be noted that IBQ shares and allocations are subject to change each year (based on fishing effort/number of sets), all active vessels would receive IBQ allocation, and the leasing market is likely to continue to function well. The most notable trend is that under dynamic allocation based on sets vessels are generally distributed more IBQ allocation than under the No Action Alternative (with the exception of shareholders in the first quartile). The number of IBQ shareholders would be reduced from 136 to 97, and dynamic allocation would reduce dissatisfaction among active fishery participants that results from the current regulations under which a relatively large number of permit holders who are not active receive an annual IBQ allocation because they are IBQ shareholders (with a permitted vessel).

Sub-Alternative A2c, the preferred alternative, would define IBQ shareholders annually based upon the total amount by weight of each individual permitted vessel's designated species landings relative to the total amount of designated species landings by pelagic longline fleet, as the measure of fishing effort. The overall economic impact would be minor and beneficial. For most active IBQ shareholders, who are small business entities, the economic impact of this alternative would be positive and similar to Sub-Alternative A2a. Overall, there would be a net increase in IBQ allocation value. Based on the analysis of the data, 57 vessels would have IBQ allocations larger than compared to the No Action Alternative, and be in a better economic position with respect to the amount of IBQ allocation they have (expressed in terms of potential leases costs avoided, or leasing benefits accrued). Using $1.70 cost per pound (explained under Sub-Alternative A2a), lease value of IBQ allocation gained would be approximately $4,884 per shareholder with a range of $248 to $12,844. Forty-two vessels would have IBQ allocations smaller when compared to the No Action Alternative, and would be in a worse economic position with respect to the amount of IBQ allocation they have. Using the same $1.70 cost per pound, the average lease value of IBQ allocation lost would be approximately $2,836 per shareholder with a range of $136 to $6,620. However, as with Sub-Alternative A2a, it should be noted that IBQ shares and allocations are subject to change each year (based on fishing effort/designated species landings), all active vessels would receive IBQ allocation, and the leasing market is likely to continue to function well, with a price similar to or lower than recent prices, because most vessel allocations would increase. Furthermore, the economic costs associated with reduced allocations would only be realized if shareholders need to lease IBQ allocation to account for bluefin catch in excess of their allocations. The exclusion of dolphin and wahoo from the list of designated species affected the IBQ share percentages of eight vessels. Compared to the IBQ share percentages that they would have received if the dolphin and wahoo were included, four vessels would increase in share percentage and four vessels would decrease. The difference in percentage shares was relatively minor, with vessel shares moving from one quartile to an adjacent quartile. The most notable trend is that under dynamic allocation based on designated species landings, vessels generally would be distributed more IBQ allocation than under the No Action Alternative (with the exception of shareholders in the first quartile). The number of IBQ shareholders would be reduced from 136 to 99, and dynamic

allocation would reduce dissatisfaction among active fishery participants that results from the current regulations under which a relatively large number of permit holders who are not active receive an annual IBQ allocation because they are IBQ shareholders (with a permitted vessel).

Sub-Alternative A2d would define IBQ shareholders annually, and distribute IBQ allocation in equal amounts to eligible permitted vessels. The overall economic impact would be minor and beneficial. An eligible vessel would be any vessel that landed designated species during recent years (*i.e.,* at least one of the three most recent years of available data). For most active IBQ shareholders, who are small business entities, the economic impact of this alternative would be positive and similar to Sub-Alternative A2a. There would be 98 defined shareholders based on current data for eligible vessels. Based on the analysis of the data, 61 vessels would have IBQ allocations larger than compared to the No Action Alternative, and be in a better economic position with respect to the amount of IBQ allocation they have (expressed in terms of potential leases costs avoided, or leasing benefits accrued). Using $1.70 cost per pound (explained under Sub-Alternative A2a), lease value of IBQ allocation gained would be approximately $3,305 per shareholder with a range of $2,589 to $6,256. Thirty-seven vessels would have IBQ allocations smaller when compared to the No Action Alternative, and would be in a worse economic position with respect to the amount of IBQ allocation they have. Using the same $1.70 cost per pound, the average lease value of IBQ allocation lost would be approximately $1,083 per shareholder. The most notable trend is that under dynamic allocation based equal allocation, vessels currently in the medium and low tiers (93 vessels combined (*i.e.,* under the No Action Alternative, that have 2,157 lb and 1,330 lb, respectively)) would have a larger IBQ share percentage and be distributed more IBQ allocation under this alternative based on equal allocation (3,680 lb), while vessels currently in the high tier (43 vessels) (with 4,317 lb) would have a lower IBQ share percentage and be distributed less IBQ allocation (3,680 lb) under this alternative. The number of IBQ shareholders would be reduced from 136 to 98, and this alternative would reduce dissatisfaction among fishery participants that results from the current regulations under which a relatively large number of permit holders who are not active receive an annual IBQ allocation because they are IBQ shareholders (with a permitted vessel).

Alternative A3 would distribute IBQ allocation using the same formula used in Amendment 7, but instead of using data during the period from 2006 through 2012, the alternative would define eligible vessels as those that reported making at least one set using pelagic longline gear (based on logbook data, as in Amendment 7) from 2016 through 2018, and the relevant catch data used to designate IBQ shareholders to one of three tiers would also be based on 2016 through 2018. The use of the years 2016 to 2018 is intended to include the years following initial implementation of Amendment 7, and reflect participation in the fishery during that time period, in contrast to the No Action Alternatives and the dynamic alternatives.

The number of tiers (three) would remain the same (high, medium, and low), but the IBQ share percentages would be higher for all tiers. For example, the low tier share percentage under this alternative would be 0.5 percent instead of 0.37 percent and result in a larger annual IBQ allocation. The overall economic impact would be minor and beneficial. Although the defined IBQ share percentages would all be larger, because the alternative entails recalculation of the complex Amendment 7 formula based on more recent data (*i.e.,* 2016 to 2018), for all vessels, some permit holders would change tiers, going either 'up' or 'down' with the net result that under this alternative, some permit holders would have a larger IBQ share percentage and other permit holders would have a smaller IBQ share percentage when compared to the No Action Alternative. Based on the analysis of the data, 71 vessels would have IBQ allocations larger than compared to the No Action Alternative, and be in a better economic position with respect to the amount of IBQ allocation they have (expressed in terms of potential leasing costs avoided, or leasing benefits accrued). Using $1.70 cost per pound (explained under Sub-Alternative A2a), lease value of IBQ allocation gained would be approximately $3,181 per shareholder with a range of $805 to $10,086. Twenty-eight vessels would have IBQ allocations smaller when compared to the No Action Alternative, and would be in a worse economic position with respect to the amount of IBQ allocation they have. Using the same $1.70 cost per pound, the average lease value of IBQ allocation lost would be approximately $1,404 per shareholder with a range of between $601 and $4,273. The distribution of allocation among vessels is similar for the two alternatives, but for the revised Amendment 7 alternative, there are a higher number of vessels that receive larger distributions. For example, under the No Action Alternative, 56 vessels would be allocated the equivalent of between 6 and 10 bluefin, whereas under this alternative (A3), 42 vessels would be allocated between 11 and 15 bluefin. The number of IBQ shareholders would be reduced from 136 to 99, and this alternative would reduce dissatisfaction among active fishery participants that results from the current regulations under which a relatively large number of permit holders who are not active, receive an annual IBQ allocation because they are IBQ shareholders (with a permitted vessel).

Modifications to Rules Closely Linked to IBQ Allocations

The economic impacts of Alternative B1, the No Action Alternative, would be neutral, and mean continuation of the current IBQ shareholders, associated share percentages, and regional designations. Vessels that currently do not have GOM designated IBQ allocation but would like to fish in the Gulf of Mexico would continue to be required to lease GOM IBQ allocation. The costs associated with vessels leasing GOM designated IBQ allocation would continue.

Alternative B2, the elimination of the regional designations in conjunction with continuing to limit bluefin catch from the Gulf of Mexico to a defined cap (set at 35 percent of the Longline category quota) may have beneficial and adverse economic impacts. There may be a beneficial impact on vessels that under the current regulations (No Action Alternative) have only ATL designated IBQ allocation, and currently must lease GOM designated IBQ allocation in order to fish in the Gulf of Mexico. Such vessels would be able to fish in the Gulf of Mexico without the need to lease, which may reduce or eliminate the need for leasing IBQ allocation by such vessels. Facilitation of fishing opportunities in the Gulf of Mexico may result in increased revenue for such vessels. For vessels that already fish exclusively in the Gulf of Mexico, with all or most of their IBQ allocation designated as GOM, this alternative may have adverse economic impacts. Such vessels that currently have GOM designated IBQ allocation may face increased competition for fishing grounds or markets due to any increased fishing effort in the Gulf of Mexico, or face a smaller market for leasing their GOM allocation to other vessels.

Alternative B3, the preferred alternative, would modify regional GOM and ATL designations for a dynamic allocation system (Sub-Alternatives A2a through A2d) and cap allowable bluefin catch from the Gulf of Mexico. The overall economic impact would be minor and beneficial. Under this alternative, vessels would receive annual GOM-designated shares as a result of fishing with pelagic longline gear in the Gulf of Mexico during the previous year. For vessels that currently only have ATL-designated shares, this alternative would enable them to fish without necessarily needing to lease GOM-designated allocations. Historical fishery participants in the Gulf of Mexico would continue to receive GOM designated IBQ share based on their level of activity (in the Gulf of Mexico). If the number of vessels fishing in the Gulf of Mexico increased, there may be minor, adverse economic impacts to those entities due to increased competition. However, based on the few vessels with homeports in the Atlantic that have fished in the Gulf of Mexico during the past few years, the potential for any adverse economic impact on vessels with home ports in the Gulf of Mexico is very low. In summary, the economic impacts are expected to be minor, short-term and beneficial, as a result of the increased flexibility for vessels currently without GOM designated IBQ allocation.

Alternative B4, the preferred alternative, is the No Action Alternative with respect to how data on fishing activity in the Northeast Distant gear restricted area (NED) is used in calculating IBQ shares (in conjunction with the allocation alternatives). See 50 CFR 635.2 (defining NED). This alternative would maintain the inclusion of any data associated with fishing in the Northeast Distant Area (NED) as part of formulas that determine IBQ shares (and associated allocations),{XE ''Amendment 7''} and maintain the current IBQ{XE ''IBQ''} catch accounting rules for fishing in the NED (*i.e.,* vessels fishing in the NED do not have to use IBQ allocation to account for bluefin catch until after the 25 mt NED quota is utilized). For example, under the dynamic allocation alternatives, vessels that fish in the NED would continue to be able to fish there with no impact on their associated IBQ share calculation the next year, since that fishing effort (in the NED) would continue to count toward their fishing activity.

Alternative B5 would not include NED fishing activity as part of the data used in calculating IBQ shares. This alternative could have short-term to long-term minor, adverse economic impacts on vessels that fish in the NED, if excluding NED fishing data results in vessels receiving a lower IBQ share percentage. For example, under Alternative B5 in conjunction with Alternative A2a (dynamic allocation based on hooks), excluding NED fishing activity would mean a substantial reduction in the number of hooks used to determine IBQ shares for the nine vessels that fished in the NED during 2016 to 2018. However, shares are determined based on quartiles, and only one of those nine vessels would have a lower percentage share as a result of excluding NED fishing data. The NED fishery is unique and highly variable, and therefore only a few vessels fish there intermittently. If a vessel fished in the NED during a particular year, their share percentage may be reduced during subsequent years as a result, whether or not any bluefin were caught during that year, and whether or not the vessel chooses to fish in the NED during subsequent years. If those operating in the NED receive a lower IBQ share percentage relative to their total fishing effort than other vessels, this may put them at a competitive disadvantage.

Sale of IBQ Shares

Preferred Alternative C1 would continue the current regulations under which no sale of IBQ{XE ''IBQ''} shares{XE ''IBQ shares''} are allowed. This alternative is expected to have minor beneficial economic impacts. There is little need for Atlantic Tunas Longline category permit holders to accumulate additional IBQ shares, because for most permit holders, a situation with annual allocations combined with a minimal amount of leasing is likely to be sufficient for permit holders to account for bluefin catch. Continued prohibition on sale of IBQ shares would reduce uncertainty in the IBQ allocation{XE ''IBQ allocation''} leasing market in both the short term and long term, which would be beneficial to the IBQ Program overall.

Alternative C2 would allow sale of IBQ{XE ''IBQ''} shares{XE ''IBQ shares''}. This alternative is expected to have minor, adverse economic impacts overall. Some impacts may be beneficial and some adverse, with the net socioeconomic impacts being minor and adverse. Sale of IBQ shares provides Atlantic Tunas Longline category permit holders an alternative means of participating in the IBQ leasing market that enables management of their IBQ allocation{XE ''IBQ allocation''} and business planning on a longer time scale than a single year. Permit holders may be able to save money through a single IBQ share transaction instead of via annual IBQ allocation lease transactions, a beneficial impact. On the other hand, allowing sale of IBQ shares would introduce uncertainty in the IBQ allocation leasing market, which is otherwise robust as described in the Three-Year Review{XE ''Three-Year Review''}, and that uncertainty could have an adverse impact on the IBQ Program overall. An example of increased uncertainty in the fishery may be a result of the IBQ leasing market. There may be a concern about an individual entity purchasing an amount of IBQ shares that results in a negative impact on other shareholders or on the ability of fishery participants to lease IBQ. There is no demonstrated need for Atlantic Tunas Longline category permit holders to accumulate additional IBQ shares over multiple years, because for most permit holders, annual allocations combined with a minimal amount of leasing is likely to be sufficient for permit holders to account for bluefin catch. Furthermore, sale of IBQ shares would not be consistent with the dynamic allocation alternatives.

Cap on IBQ Shareholder Percentage or IBQ Allocation Use

Sub-Alternative D1a, the No Action Alternative, would not place a cap on the amount of IBQ shares a single entity may own. This alternative is expected to have neutral economic impacts on small entities. The IBQ Program has been functioning under these regulations since 2015, and there have been no reported or observed issues relating to excessive accumulation of IBQ shares. In 2015–2019, the highest level of IBQ share ownership by one entity was between five and six percent of total IBQ shares, and this percentage remained the same throughout that time period. Overall, IBQ share ownership has been fairly stable over time. In addition, the preferred alternatives under the IBQ allocation alternatives (A alternatives) are designed to update and more closely align the distribution of IBQ shares with the current fishing activity and need for IBQ allocation of the pelagic longline fleet, which could reduce the likelihood that entities would seek to buy additional Atlantic Tunas Longline category permits with IBQ shares, or buy additional IBQ shares if allowed under this Amendment.

Sub-Alternative D1b, which would cap the allowable accumulated sum of IBQ shares that could be held by a single entity at seven percent, is expected to have minor, adverse economic impacts on small entities. In 2015–2019, the highest level of IBQ share 'ownership' by one entity was

between five and six percent of total IBQ shares, and this percentage remained the same throughout that time period. Under the allocation method described under the preferred 'A' alternatives, NMFS estimates that the highest level of IBQ shares that a single entity would acquire on an annual basis would be between six and seven percent of total shares. If this trend continues and the maximum percent ownership remains stable over time, implementing a cap at seven percent would not impact the fleet. However, there is the possibility that entities could have business plans to acquire additional shares in the short-term that would be above a seven-percent cap, in which case there could be short-term minor and adverse economic impacts.

In the long-term, if entities have business plans to acquire additional Atlantic Tunas Longline category permits, they would need to determine whether their intended purchase, in combination with their current level of shares, would exceed the share cap of seven percent of the total shares. The entity would be limited by the regulations to either buying a permit that does not cause them to reach the seven percent cap, or to buying a permit with no IBQ shares. Since seven percent is a low cap, it is more likely that an entity could be faced with that limitation in the long-term. Another impact could occur if, under the preferred ''A'' alternatives, the number of active vessels decreases and therefore the IBQ share percentage to each vessel increases. At a seven-percent cap, an entity could have to forgo purchases (of permits or shares, if allowed) in order to avoid exceeding the cap and being in violation of the regulations. By indirectly limiting the number of Atlantic Tunas Longline category permits an entity could hold (outside of the five-percent vessel limit discussed above at § 635.4(l)(2)(iii)), or limiting the amount of annual IBQ shares an entity could receive (or buy, under Alternative C2), the seven-percent cap could in turn limit the amount of fishing activity. If an entity owned many vessels and caught a large percentage of designated species landings (under the dynamic allocation alternatives), it is possible that a seven percent share cap would result in a disproportionately low percentage share of bluefin could affect their ability to fish for their target species, and prevent increases in lawful fishing activity. It is also possible that, if the overall fishing effort declines, the relative share holdings of an entity would increase, even if they made no changes to the level of their ownership of permits, or in their level of fishing effort. For these reasons, Sub-Alternative D1b could have long-term adverse economic impacts.

Preferred Sub-Alternative D1c, cap amount of IBQ shares that may be held at 25 percent, is expected to have neutral economic impacts. Based on the same information, analyses and trend discussed in the first paragraph of Sub-Alternative D1b above, a 25 percent cap would not impact the fleet. This cap level would allow flexibility in entities' business planning to acquire more shares, either by acquiring additional Atlantic Tunas Longline category permits or under Alternative C2. In addition, it is not likely that an entity would reach a 25-percent cap through the annual IBQ shares they would receive under the A alternatives. Therefore, impacts would be neutral. However, there is the possibility that entities could have business plans to acquire additional shares that, in the long-term, would be above a 25-percent cap, in which case there could be long-term minor, adverse economic impacts. On the other hand, implementing a cap to prevent acquisition of excessive IBQ shares would prevent a single entity from controlling a portion of the market that may be considered excessive.

Sub-Alternative D1d, which would cap the allowable amount of IBQ shares held by a single entity at 50 percent, is expected to have neutral economic impacts. Based on the same information, analyses and trend discussed in the first paragraph of Sub-Alternative D1b above, a cap at 50 percent would not impact the fleet. This cap level would allow flexibility in entities' business planning to acquire more shares, by acquiring additional Atlantic Tunas Longline category permits or through the purchase of shares as allowed under Alternative C2. In addition, it is not likely that an entity would reach a 50-percent cap through the annual IBQ shares they would receive under the A alternatives. Therefore, impacts would be neutral. In the long-term, Sub-Alternative D1a could have minor, adverse economic impacts if the high cap level of 50 percent is insufficient to prevent acquisition of excessive IBQ shares, allowing a single entity to control an excessive portion of the market. On the other hand, there is the possibility that entities could have business plans to acquire additional shares that, in the long-term, would be above a 50-percent cap, which could also have a long-term minor, adverse economic impact, although this is not likely with the high 50 percent cap level.

Adjustments to Other Aspects of the IBQ Program

Sub-Alternative E1a, No Action on modifying dealer reporting requirements that were implemented by Amendment 7, would have minor, adverse economic impacts because it requires vessel operators and dealers to collaborate in submitting information that is also supplied independently by the vessel operators by way of VMS. Fishermen and dealers have expressed frustration with the requirement that fishermen submit a PIN when dealers enter landings data. Fishermen were frequently either not available when dealers entered the data, or did not have access to their PIN. As a result, fishermen chose to provide their PINs to dealers, which allowed the data to be entered, but did not provide the data verification that was originally intended.

Sub-Alternative E1b, the preferred alternative that would modify dealer reporting requirements for the IBQ Program, has minor, beneficial, economic impacts for dealers because it would remove the dealer dead discard reporting requirement and the PIN requirement, thus reducing labor costs with these tasks. The requirement has been redundant since the automatic integration of the VMS dead discard data into the Catch Shares Online System database, dealers have been non-compliant with the dead discard reporting aspect of the regulations, and NMFS does not believe the PIN requirement is needed for accurate and secure reporting. During the time-period when it collected dead discard information via two data streams, NMFS was able to verify the information that was collected, and determine that VMS was the best approach for submitting a single stream of dead discard data. Instead of the PIN requirement, this alternative would provide vessel owner oversight over dealer transactions through an email notification to vessel owners from the Catch Shares Online System, when dealers account for bluefin landings from their vessels and their account is debited IBQ allocation. Dead discards would still be reported by vessel operators at sea via the VMS units, as required under current regulations.

Sub-Alternative E2a, the No Action Alternative, would continue the current requirement that electronic monitoring system hard drives be submitted after each trip that used pelagic longline gear. This alternative would have minor, adverse economic impacts when compared to the preferred alternative. Currently, vessel owners or operators

must pull, package and ship hard drives to NMFS after each fishing trip, which results in a higher cost and time burden than the preferred alternative.

Preferred Sub-Alternative E2b would require that the vessel operator mail the hard drives at the completion of every two trips, instead of after each trip fishing with pelagic longline gear. This alternative would have a minor, beneficial economic impact by reducing the costs and time associated with mailing electronic monitoring hard drives. This would reduce the number of shipments by half. Considering the high vessel average number of 34 shipments per year, this would reduce the high average to 17 shipments. Each active vessel would still ship at least one hard drive per year, as NMFS would require any data recorded in a given year be submitted to NMFS prior to the next fishing year. Assuming a shipping cost of $20 per transaction, this reduction in shipping frequency would save operators an average of $120 per year. Reducing shipping frequency also saves vessel operators additional time and logistics, by only having to pull, package and ship hard drives after every other trip. The time savings provided by this alternative are difficult to quantify, as vessel operators shipping methods will influence the amount of time saved; however, this would provide a minor beneficial impact by providing time savings to the vessel operators.

Sub-Alternative E3a, the No Action Alternative, would retain the current procedures regarding camera installation. The economic impacts of Sub-Alternative E3a would be neutral compared to the preferred alternative. The No Action Alternative maintains the current camera array requirements and therefore would not provide NMFS the authority to require vessels to install or mount structures that would optimize the placement of the cameras. There would not be any downtime for vessels required for installation of new hardware. This alternative would not cause any behavioral changes for the fleet, vessel operators would not be required to install a boom and would not have to deploy the boom during fishing activity. Vessel operators would continue to operate as they have since implementation of the Electronic Monitoring system requirements in Amendment 7.

Sub-Alternative E3b, the preferred alternative, would provide the authority to NMFS to require installation of hardware such as a boom, to mount and install video cameras at locations on vessels as necessary to ensure views of fish as currently required under 50 CFR 635.9, and allow NMFS, working in conjunction with the vessel owner/operator, to make relatively minor modifications to the vessel structure to mount cameras in locations that provide views of the vessel and adjacent areas as required under § 635.9. The economic impacts of modifying the camera installation and placement would be minor and adverse for these small entities. Vessel crew would be required to extend, lower, or raise the boom mounted camera during fishing activities if needed. Additional logistics required may represent an increased time burden and a slight increase in the complexity of their fishing operation. Overall, this time burden would only be a couple of minutes to extend, lower or raise the boom at the start and end of each fishing trip. Crew may also be required to access the camera during the trip to clean the lens. The process of cleaning the lens may be more difficult if the camera is mounted on a boom. The cost associated with the booms, including installation, would be paid by NMFS, thus minimizing impacts on small entities. Since NMFS would cover the cost of installations of the boom and re-mounting the camera, there would be no economic burden on the fleet for initial installation of booms.

Sub-Alternative E4a, the No Action Alternative regarding specifying additional fish handling protocols for electronic monitoring, would have neutral economic impacts. No additional handling requirements or measurement tools would be required and there would be no additional labor or equipment costs to vessel operators.

Preferred Sub-Alternative E4b would require more specific fish handling procedures and the installation/placement of a measuring grid on deck, in view of one of the cameras. This alternative may increase costs in terms of the time required to process fish or costs associated with a measurement tool, such as a processing mat or painted grid on the deck. Non-skid deck paint costs between about $35 and $85 per gallon. A 4 foot by 8 foot all-weather mat, custom printed with a grid may cost approximately $225 per mat. The crew would need to modify their fish handling procedures to place all fish on the grid. Although the requirement would be in place for the long-term, it is anticipated that the impacts would reduce over time as crew practiced the new handling procedure and therefore would have neutral long-term impacts on operations.

Sub-Alternative E5a would make no changes to the current regulations, under which there is no cost recovery program in place for the IBQ Program. Therefore, it would not have any economic costs on small entities.

Sub-Alternative E5b, the preferred alternative, would implement a cost recovery program. A cost recovery fee, if implemented, would have a minor, adverse economic impact on permit holders that land bluefin. They would incur up to a three percent fee on any sale of bluefin to dealers. The long-term impacts are uncertain given that the fee would not be charged if the costs of collecting the fees exceed estimated recovered costs, and therefore may only be charged intermittently.

Modifications to the Purse Seine Category Management Measures and Other Category Quota Allocations

Alternative F1 and its sub-alternatives consider changes to the mathematical method used in the annual quota allocation process to reflect the current annual 68 mt allocation to the Longline category. Economic impacts of Sub-Alternative F1a (the ''No Action'' alternative) are expected to be neutral because the current method remains unchanged: 68 mt is subtracted from the baseline quota then allocation percentages for the different categories are applied. Preferred Sub-Alternative F1b would simplify that two-step process and simply modify the currently codified allocation percentages to incorporate the 68-mt.

Sub-Alternative F1b would have neutral economic impacts to each category because the overall quota and amount of quota (in mt) distributed to each category would not change from the status quo under the current ICCAT quota. If the ICCAT quota increased in the future, this alternative would have minor, positive economic impacts for Longline category participants and minor, negative economic impacts for other categories when compared to the status quo because the Longline category would be allocated slightly more quota than under the No Action Alternative. Conversely, in the event of an ICCAT quota decrease, the impacts for the Longline category would be minor and negative, with minor and positive impacts to the other categories compared to the status quo.

Alternative F2 and its sub-alternatives consider options related to the timing of discontinuing the Purse Seine category and reallocating the quota to other categories. Methods of reallocation are discussed under Alternatives F3 (a and b) and F4. Sub-Alternative 2a, the No Action Alternative, would maintain all aspects of the current quota allocation among categories (subject to quota allocation alternatives considered in Sections G, H, and I, regarding the

General and Harpoon categories) and Purse Seine category regulations. The Purse Seine category fishery participants would continue to receive quota based on their previous year's fishing activity level and could either fish or lease out their annual quota distribution through the IBQ system. The economic impacts of this alternative would be neutral, but there would continue to be the loss of fishing opportunity associated with the unused Purse Seine category quota.

Sub-Alternative F2b, a preferred alternative, would discontinue the Purse Seine category and reallocate quota upon the effective date of Amendment 13. The ability of vessels to obtain an Atlantic tunas Purse Seine category permit would also end. NMFS would remove purse seine from the list of authorized gears and remove other references in the regulations to the purse seine fishery, purse seine gear, purse seine nets, purse seine sets, purse seine vessels, and Purse Seine category, including references to Purse Seine category quota, permits, and participants. This alternative could be implemented in conjunction with one of the methods of reallocation described under Alternatives F3 (a and b) and F4, and is intended only to address the timing of the discontinuation of the Purse Seine category.

Sub-Alternative F2b would have moderate adverse economic impacts to Purse seine category participants compared to the status quo. Under this alternative, quota allocations would no longer be distributed to Purse Seine category participants, so neither fishing for bluefin nor leasing via the IBQ system would be allowed after the effective date of Amendment 13. The economic impacts are estimated based on the loss of potential revenue from these two activities.

Leasing of purse seine annual distributions of quota in the online IBQ System has provided additional revenue for purse seine vessels. The potential annual value of purse seine-related leases can be estimated using leasing data from the last five years (2015–2019). The weighted price per lb for purse seine-related leases shows a declining trend over the last five years, so the most recent cost of $1.25 per lb was used to estimate likely potential loss. The greatest amount of purse seine category quota leased was 47.7 percent in 2019. Using the average amount of quota leased each year over the time series (30,713 lb) multiplied by $1.25 per lb, there would be an estimated loss of $38,391 per year category-wide or $7,678 per participant. The average amount of quota leased over this five year period was used as a basis for this estimate because the amount of purse seine related IBQ quota leased was variable, and showed no discernable trend. Although unlikely, the theoretical maximum annual loss would be a total of $151,568 ($30,314 per participant), assuming all allocated Purse Seine category quota (121,254 lb) would be leased at $1.25 per lb.

The other potential negative impact of this alternative is the loss of potential fishing revenue. Purse Seine category participants last landed fish during 2013–2015. It is unlikely that Purse Seine category participants would choose to fish again because of such limited activity over the last 15 years. Purse Seine category participants are not currently economically dependent upon bluefin landings. If they did choose to fish in the future, the value of landings can be estimated using historical data and applying the quota adjustments based on previous year's catches. Dead discards could also be estimated using the observer data collected during the 2013–2015 season. The average annual dead discard estimate is 28.4 percent of catch, or conversely, Landings = Catch × 71.6 percent. Applying those percentages to the current adjusted quota of 55 mt results in an estimated 39.4 mt in landings and discards up to 15.6 mt, depending upon the number of participants fishing. Catch of 55 mt equates to 11 mt per vessel, which is 25 percent of the 43.9 mt annual allocation. Based on that level of catch, under current regulations (where the annual allocation is based upon the level of catch during the previous year), the allocation for each vessel in the following year would be 50 percent of the base quota level.

The average price for Purse Seine category landings for the three most recent years of activity (2013–2015) was $4.66 per lb round weight. The most likely estimate of Purse Seine category fishing activity over the next five years is for zero mt landings since the category has not fished since 2015. However, the maximum amount the Purse Seine category could harvest annually (based on the highest level of quota possible and five participants), and as a result the maximum revenue lost for this alternative, taking into consideration dead discards, is estimated to be 1.61 million category-wide, or $0.32 million per participant. This estimate is based on the maximum Purse Seine category quota (220 mt total, and 157 mt landings) instead of the adjusted Purse Seine category quota (55 mt).

Sub-Alternative F2c would discontinue the Purse Seine category and reallocate quota at a future (sunset) date *i.e.,* the end of Year 2 after Amendment 13 is implemented. Two aspects of this sub-alternative are under consideration: Whether to allow Purse Seine category participants the option of leasing, and whether to allow participants the option of fishing against quota until the sunset date is reached. Sub-Alternative F2c1 would allow leasing and fishing until the sunset date, while Sub-Alternative F2c2 would only allow leasing until the sunset date. Economic impacts for Sub-Alternative F2c1 would be moderate and adverse, the same as Sub-Alternative F2b (discontinue Purse Seine category upon implementation of Amendment 13), but delayed by two years since both fishing and leasing activity would be allowed under this alternative until the end of Year 2. Annual losses for Purse Seine category leasing are estimated to be $38,391 category-wide and $7,678 per participant, based on the average amount of quota leased since 2015.

Sub-Alternative F2c2 would discontinue the Purse Seine category at a sunset date (end of Year 2) and only allow leasing until the sunset date. Specifically, this alternative would adjust the Purse Seine category quota to 4.4 percent of the bluefin quota (25 percent of the 17.6 percent allocation that would be provided under Alternative F1b). The remaining 75 percent of the Purse Seine category quota would be reallocated to the other bluefin quota categories in accordance with one of the reallocation alternatives. This alternative would result in a set annual quota percentage, in contrast to the No Action alternative (F2a), which considers the previous year's catch by Purse Seine category participants in determining the amount of quota available to each participant in the current year.

Economic impacts for Sub-Alternative F2c2 would be moderate and adverse, the same as Sub-Alternative F2c1, but since only leasing activity would be allowed under this alternative until the end of Year 2, revenue losses for subsequent years would apply. Like Sub-Alternative F2c1, annual losses for Purse Seine category leasing are estimated to be $38,391 category-wide and $7,678 per participant, based on the average amount of quota leased since 2015. Potential loss of fishing revenue is similar to that estimated for Sub-Alternative F2b, since fishing would not be allowed under this alternative. The most likely estimate of Purse Seine category fishing activity over the next five years is for zero mt landings

because the category has not fished since 2015. However, the maximum amount the Purse Seine category could harvest (based on the highest level of quota possible and five participants), and as a result the theoretical maximum revenue lost for this alternative, taking into consideration dead discards, is estimated to be $1.61 million category-wide, or $0.32 million per participant.

NMFS considered two sub-alternatives that would reallocate the Purse Seine category quota proportionally to all other quota categories. For the Longline category, sub-Alternative F3a would apply the increase to all areas, while Sub-Alternative F3b would only allow the Longline category increase to be fished in the Atlantic (not the Gulf of Mexico). All of the Purse Seine participants have sold their vessels, likely along with their Purse seine gear and associated equipment, thus anticipated economic impacts of the sub-alternatives would be related to quota leasing.

Economic impacts for Sub-Alternative F3a would be moderate and beneficial, and include estimated increases in revenue for the commercial quota categories that would receive the redistributed quota after the Purse Seine category was terminated. Annual revenue increases are estimated as follows: $1,696,758 for the General category, $386,516 for Longline, $131,548 for Harpoon, and $93,204 for Reserve, resulting in a combined total of $2,301,026. Annual revenue loss depends on whether quota is reallocated immediately (Sub-Alternative F2b) or in the future (Sub-Alternative F2c). When combined with Sub-Alternative F2b (immediate reallocation), F3a would have moderately beneficial economic impacts on fishery participants as a result of increased bluefin quota and associated revenue (approximately $2.15 million annually) and estimated annual revenue loss to the Purse Seine category from leasing of $0.15 million annually. Revenue from leasing rather than fishing was used to calculate net value, because Purse Seine category participants have not fished since 2015, but have been actively leasing quota through 2019.

When combined with Sub-Alternative F2c (delayed reallocation), F3a would result in neutral short-term economic impacts, since there would be no immediate change from the status quo. However, once Purse Seine category quota is reallocated after two years, there would be gains for the categories receiving quota and losses for the Purse Seine category.

Sub-Alternative F3b places a restriction on the regional use of such quota by the Longline category, which catches bluefin in the context of the IBQ Program. Specifically, that portion of the reallocated Purse Seine category quota that would be allocated to the Longline category would be designated as ATL IBQ allocation, and could not be used to account for bluefin caught in the Gulf of Mexico. The average price per pound for bluefin caught by vessels in the Longline category, purchased during 2017–2019 in the Gulf of Mexico ($5.11) was slightly higher than Atlantic-caught bluefin ($5.02/lb); however, only a total of 14.5 mt out of 365.8 mt (3.9 percent) was landed in the Gulf during this time period. The reduction in annual revenue if all bluefin were landed in the Atlantic at the lower price is approximately $274 per year for the Longline category.

When combined with Sub-Alternative F2b (immediate reallocation of Purse Seine category quota), the socioeconomic impacts for Alternative F3b would be moderately beneficial for participants, with some indirect benefits to dealers and fishery related businesses, except for pelagic longline vessels that fish in the Gulf of Mexico. The calculated economic impacts are the same as described for Sub-Alternative F3a: Beneficial economic impacts of approximately 2.15 million annually and an estimated $0.15 million annual revenue loss from foregone Purse Seine category leasing.

Preferred Alternative F4 would redistribute Purse Seine category quota only to the directed categories. Economic impacts for Alternative F4 would be moderate and beneficial, and include estimated increases in revenue for the commercial quota categories that would receive the redistributed quota after the Purse Seine category was terminated. Annual revenue increases would be $2,011,770 for the General category, $147,046 for the Harpoon category, and $109,894 for the Reserve category, for a total revenue increase of $2,268,710. Economic impacts vary depending on whether reallocation of the Purse Seine category quota occurs immediately or is delayed.

Immediate reallocation of Purse Seine category quota (Preferred Alternative F2b) would result in moderately beneficial impacts for directed category participants receiving quota. The estimated annual increase in revenue for these categories totals $2.26 million. Net impacts are also beneficial, because the estimated annual revenue loss for the Purse Seine category from loss of leasing is $0.15 million annually, which equals a net increase in revenue of approximately $2.11 million annually.

Delayed reallocation of Purse Seine category quota (Sub-Alternative F2c1 or F2c2) after a 2-year sunset period, would likely have a neutral short-term impact and a moderately beneficial long-term impact. There would be economic gains for the categories receiving quota when the sunset of the Purse Seine category occurs after two years, and losses for the Purse Seine category at that time. These annual gains would be approximately $2.26 million. The estimated annual revenue loss to the Purse Seine category from leasing would be $0.15 million annually.

Modifications to General Category Subquota Periods and/or Allocations

Alternative G1, the preferred No Action Alternative, would not make any modifications to the General category {XE ''*General category*''} subquota periods and/or allocations. If no action is taken to modify the General category subquota allocations, economic impacts would be neutral. The status quo subquotas assigned to the time periods generally reflect the historical catch patterns from the 1980s and 1990s as well as formalization of the winter fishery. Recent annual bluefin landings under the General category quota have approached or exceeded the base and adjusted General category quotas (*i.e.,* they were 149 and 101 percent of base and adjusted quotas, respectively, for 2017; 168 and 96 percent of base and adjusted quotas for 2018; and 147 and 104 percent base and adjusted quotas for 2019).

Although ex-vessel prices have been variable over the last several years, high landings relative to quota have led to a modest total increase in ex-vessel gross revenues in 2016 through 2019. Revenues for the General category were $9.7 million in 2016 and 2018, at the highest level since 2002. Although the preferred alternative (G1) would result in slightly less annual gross revenues, (0.2 to 3.6 percent less than for the other alternatives), the potential for the other General category subquota allocation alternatives to realize increased revenue is strongly subject to availability of fish and fishing conditions during these time periods. Further, the potential gross revenue estimates for Alternatives G2a, G3a, and G3b are based on price assumptions and market dynamics that are uncertain.

Sub-Alternative G2a would modify the General category {''XE *General category*''} time periods associated with the subquotas from their current structure to 12 equal monthly subquota periods. To calculate potential changes in revenues, the amount of potential landings and the value of those landings associated with the current subquota

time period were estimated, assuming full harvest, and compared to estimated revenue under revised subquota periods of 12 equal months. NMFS used average 2017–2019 price data, by subquota time period, to calculate potential gross revenues. For early season (January through March) General category participants, an additional 109.4 mt would be available if the subquotas were distributed based on 12 monthly equal subquota periods. At $6.93 per pound as an estimate for the ex-vessel prices, this represents a potential revenue increase of approximately $1.6 million overall during the period from January through April, nearly five times the current amount. Potential revenues for the current June–August and September periods (based on 12 equal subquota periods) would decrease by approximately $1.9 million (50 percent) and $1.5 million (69 percent), respectively, given recent average price ($6.41 and $6.66, respectively). For the months of October, November and December, potential revenues would increase by approximately $309,000 (28 percent) and $404,000 (60 percent) at $6.89 per pound and $10.54 per pound, respectively. Relative to the No Action Alternative (G1), there would generally be substantially increased revenues for January through March and October through December and substantially decreased revenues for June through September, and total annual revenues would increase by approximately $303,000 (3.6 percent). Thus, impacts are expected to be moderate, and may be beneficial or adverse, depending on quota and fish availability in the various time periods. Of the status quo alternative (G1) and those that modify the time period subquotas (G2a, G3a, and G3b), this alternative (G2a) would result in the highest potential annual gross revenues, but the amount is less than 4 percent greater than for the Preferred Alternative G1. It is important to note that the potential changes in revenues in these General category subquota allocation alternatives is strongly subject to availability of fish and fishing conditions during these time periods. Further, the potential gross revenue estimates are based on price assumptions and market dynamics that are uncertain.

Sub-Alternative G2b, which would modify General category{XE ''*General category*''} time periods to extend the January through March subquota time period through April 30, would increase the likelihood that winter General category participants and Charter/Headboat participants, when fishing commercially, would be able to harvest the full January subquota, particularly if NMFS increases the January–March subquota via an inseason transfer. Thus, impacts would be minor, and may be neutral or beneficial, depending upon when fishery participants fish. For General category participants fishing in the January through March period, the effects would be beneficial. The likelihood of these economic benefits being realized may not be high. For those fishing later in the year, the impacts are likely to be neutral. To the extent that less unused quota might roll forward to later periods, impacts for General category participants fishing in the later time periods could be slightly adverse, however the January subquota period has been catching most of its quota under the current, shorter time frame. A potential increase in the geographic and temporal distribution of landings may help to more closely approach optimum yield. Increases in positive economic impacts would depend on the availability of bluefin to the fishery from the beginning of April until the available subquota (base or adjusted, as applicable) is reached. Price/pound is also influenced by the amount of bluefin on the market. NMFS estimates the value of an unused mt of January–March subquota, using the January–March 2019 average price per pound of $6.93, at $15,277. The value of the 2019 January–March base subquota is estimated at $2,122,478 assuming full harvest.

Sub-Alternative G3a modifies the General category{XE ''*General category*''} allocation percentage to increase the January through March amount. In 2015 and 2016, June through August subperiod landings were less than the base quota. For the last three years, June through August subperiod landings have exceeded the available base quota, the subquota period has closed, and NMFS has not transferred additional quota to the General category for use in that subperiod. If quota that is anticipated to be unused in the first part of the summer season is made available to January through March period General category participants and bluefin are landed against the January through March subquota, it would potentially result in improved and fuller use of the General category quota. Also, because bluefin price per pound is often higher in the January period than during the summer, shifting quota to this earlier period would result in beneficial impacts to early season General category participants. It is possible, however, that an increase of bluefin on the market in the January through March period could reduce the average price for that time of year. Participants in the summer fishery may perceive such quota transfer to be a shift away from historical participants in the traditional General category bluefin fishing areas off New England and thus adverse. However, because unused quota rolls forward within a calendar year from one period to the next, any unused quota from the adjusted January through March period would return to the June through August period and onward if not used completely during that period. Overall, impacts would be expected to be neutral or minor and beneficial for January through March fishery participants and neutral or minor and adverse impacts for participants in the June through December time periods.

Sub-Alternative G3b would modify General category{XE ''*General category*''} allocation percentages and increases the September and the October through November amounts and decreases the June through August amount. To the extent that quota that is anticipated to be unused in the first part of the summer season is made available to General category participants for the September and October through November periods and bluefin are landed against those subquotas, it would potentially result in improved and fuller use of the General category quota. In the last three years, however, the June through August base subquota has been exceeded, and the fishery for that time period was closed in 2017 and 2019 prior to August 31. Also, because bluefin price per pound is often higher in the September and October through November periods than during the June through August period, shifting quota to these later periods would result in beneficial impacts to fall General category participants. It is possible, however, that an increase of bluefin on the market in the fall periods could reduce the average price for that time of year. Participants in the summer fishery who may only have access to bluefin at that time may perceive such quota transfer to be adverse. However, summer and fall participants are largely the same. Additionally, any unused quota from the June through August subperiod rolls forward to subsequent periods. Overall, impacts would be expected to be neutral or minor and beneficial for September through November fishery participants and neutral or minor and adverse for participants in the June through August time periods. However, there is a risk in shifting quota allocation to later periods in the fishing year that the full General category quota may not be reached,

depending on fishing conditions and bluefin availability on the fishing grounds.

Sub-Alternative G3c would modify the General category{XE ''*General category*''} allocation percentages such that any increases of General category{XE ''*General category*''} quota resulting from reallocation of Purse Seine Category quota under Alternatives F5 and F6, would be applied to the September and the October through November subquota periods.{XE ''Purse Seine''} Under Sub-Alternative G3c, impacts would be neutral or moderate, and beneficial. An additional 110.4 mt (based on reallocation of 75 percent of the current Purse Seine category{XE ''Purse Seine category''} quota) or 147.3 mt (based on reallocation of 100 percent of the current Purse Seine category quota) of quota for the General category September period could result in additional potential annual gross revenues of over $1.6 million (110.4 mt × $6.66 per pound) or $2.2 million (147.3 mt × $6.66 per pound), respectively. An additional 54.2 mt (based on reallocation of 75 percent of the current Purse Seine category quota) or 72.2 mt (based on reallocation of 100 percent of the current Purse Seine category quota) of quota for the General category October–November period could result in additional potential annual gross revenues of over $823,000 (54.2 mt × $6.89 per pound) or $1.1 million (72.2 mt × $6.89 per pound), respectively.

Modifications to the Angling Category Trophy Fishery

Alternative H1, the No Action Alternative, is expected to be neutral or minor and adverse, to vary by geographic area, and to be dependent on availability of trophy-sized bluefin on the fishing grounds. For charter vessels, which sell fishing trips to recreational fishermen, economic impacts are expected to be neutral to beneficial for those in the northern mid-Atlantic states and neutral to adverse for those north of that area, including New England states, as the opportunity to land a trophy bluefin may be diminished.

Preferred Alternative H2 would modify the current Angling category{XE ''Angling category''} Trophy North subquota areas and allocations specified at § 635.27(a)(1), by dividing the northern area into two zones: North and south of 42° N lat. (off Chatham, MA); these newly-formed areas would be named the Gulf of Maine trophy area and the Southern New England trophy area, respectively. The net result would be that the Trophy quota would be divided among four geographic areas (in the Atlantic and Gulf of Mexico) and each area would receive the same amount of quota (*i.e.,* the Angling category trophy quota would be divided equally four ways). To create the new trophy suballocation for the Gulf of Maine trophy area, NMFS would increase the allocation for trophy bluefin. Specifically, under the current Angling category quota, the trophy quota would increase from 5.4 mt to 7.2 mt, and each area would be allocated 1.8 mt. This would allow annually up to 11 trophy bluefin to be landed in the new zone north of 42° N lat. (the Gulf of Maine trophy area), using an average weight of approximately 360 lb. There would need to be an equivalent reduction of the subquota for large school/small medium bluefin subquota (47 inches to less than 73 inches) (within the Angling category quota). At an average 2018 weight of approximately 132 lb for large school/small medium bluefin, this represents a reduction of approximately 30 fish from the large school/small medium size class annually. NMFS would not expect fishing behavior to change as a result of this alternative, because there is already targeted recreational effort in that area for bluefin measuring less than 73 inches. There would be minor, beneficial social impacts (and economic impacts for charter vessels) to a small number of vessels in the new area north of 42° N lat. (the Gulf of Maine trophy area) resulting from the small amount of fish that would be allowed to be landed. There would be neutral to minor, adverse social impacts (and economic impacts for charter vessels) for those fishing for large school/small medium bluefin due to the slight reduction in allocation for those size classes. Overall, NMFS anticipates minor, beneficial economic impacts from Alternative H2.

Modifications to Other Handgear Fishery Regulations

Preferred Sub-Alternative I1a would maintain the current authorized gears applicable to the Atlantic tunas permit categories. This alternative would have neutral economic impacts on permitted HMS Charter/Headboat vessels, which could continue to fish under the Atlantic Tunas General and Angling category regulations using existing authorized gear, and neutral impacts on Atlantic Tunas General category permitted vessels. Total Atlantic Tunas General category revenues, which included sale of commercial-sized bluefin by HMS Charter/Headboat category permitted vessels, for the 2019 fishing year were approximately $8.3 million. General category fishing year bluefin base quotas have been reached annually for the last five years.

Sub-Alternative I1b would add harpoon gear as an authorized gear for the HMS Charter/Headboat category permitted vessels. The addition of this gear would only apply to vessels with the ability to carry six or fewer passengers for hire. Harpoon gear could be used on commercial trips by Charter/Headboat category permitted vessels with the commercial sale endorsement. This alternative would have minor, beneficial economic impacts, specifically for those vessels that have success in harpooning bluefin that may be available at the water's surface. Landings data and information from fishermen indicate that there are times when the feeding behavior of commercial sized bluefin makes hooking a fish difficult. To the extent that a fisherman could harpoon bluefin when the fish are present at the surface, Alternative I1b could increase the potential of filling the General category bluefin daily retention limit and of gaining more ex-vessel revenue per trip. NMFS anticipates that the number of bluefin that would be caught with harpoon gear by HMS Charter/Headboat category permitted vessels is very low. Alternative I1b may have slightly negative economic impacts for existing HMS Charter/Headboat operators due to the potential for Atlantic Tunas General or Harpoon category permit holders to change to the HMS Charter/Headboat category, potentially increasing HMS Charter/Headboat completion for clients. This alternative would provide consistency in the regulations regarding authorized handgear used historically for commercial harvest of bluefin, and would increase opportunities for commercial handgear fishermen to attain the bluefin Atlantic Tunas General category quota.

Sub-Alternative I1c would eliminate harpoon as gear authorized for use by General category permitted vessels. This alternative would result in minor, adverse impacts because it would reduce opportunity for vessels with General category permits that fish with harpoon gear and reduce flexibility and efficiency in harvesting the General category quota. Although NMFS has received comments from General category (quota) participants that harpoon activity fills the available General category quota more quickly, thus reducing opportunities for rod and reel fishermen, an examination of 2019 General category landings data show that 125 fish (less than five percent of the 2,612 fish landed by General category vessels) were reported as harpooned. At an average June through

August ex-vessel General category price per lb of $5.12 and a 366-lb average General category fish weight for rod-and-reel caught bluefin, this amount of fish could be estimated to represent a potential increase of $234,240 to General category participants using rod-and-reel gear (*i.e.,* including HMS Charter/Headboat category permitted vessels with a commercial sale endorsement landing bluefin commercially) if harpoon use was prohibited. For General category quota participants using harpoon gear, with an average June through August ex-vessel price per lb of $5.84 and a 280-lb average fish weight, the inability to land this amount of fish could represent a loss of $164,979.

Sub-Alternative I2a would maintain the current Harpoon category retention limit regulations: An unlimited number of giant bluefin per day (measuring 81″ curved fork length or greater), and two large medium bluefin per vessel per day unless the large medium bluefin retention limit is increased by NMFS through an inseason adjustment to a maximum of four per vessel per day. The economic impact of the No Action Alternative is expected to be neutral to slightly adverse, because participants would continue to be limited to the default of two large medium bluefin (and maximum of four if NMFS were to make an inseason adjustment) if caught while targeting giant bluefin.

Preferred Sub-Alternative I2b would set an overall Harpoon category daily retention limit of 10 commercial-sized bluefin per day or trip (*i.e.,* the combined limit of large medium (73″–<81″) and giant (81″ or greater) would be 10 fish), and would maintain the current regulations regarding retention of large medium bluefin (73″–<81″) (*i.e.,* the range of two (default) to four fish, adjustable through inseason action). This alternative would have neutral or minor, adverse impacts as a result of a few trips being constrained by a ten-fish limit (adverse), but also a potentially longer Harpoon category season (beneficial). On a per-trip basis, impacts would depend on several factors including bluefin fishing conditions and fish availability, the large medium retention limit (default of two but up to four through inseason action), and ex-vessel price, which is subject to numerous factors including fish handling and quality and market saturation. There could be minor, adverse impacts as a result of foregone revenue. For example, using 2019 successful trip data, if the daily limit were set at 10 bluefin, the revenue loss for the fishery as a whole could be that associated with up to 10 bluefin for the season. The revenue loss is small, because only a few trips would be constrained by a ten-fish limit. At an average 2019 weight of 306 lb and an average price of $5.37/lb for the Harpoon category, a loss of one to 10 fish would be approximately $1,640 to $16,402 for the Harpoon category as a whole for the year. Using average of 2017–2019 price data (an average of $6.28 for the Harpoon category), the range of potential revenue loss would be $1,922 to $19,220 for the year.

Preferred Sub-Alternative I2c would set an overall daily limit of 10 commercial-sized bluefin per day or trip (*i.e.,* the combination of large medium (73″–<81″) and giant (81″ or greater) would be 10 fish). Secondly, this alternative would allow NMFS to set the daily retention limit of large medium bluefin (73″–<81″) over a range of zero to five fish (adjustable through inseason action) instead of the current range of between two and four large medium fish per day or trip. NMFS would maintain the default large medium bluefin limit at two fish. Because a higher limit of large mediums would result in less potential for landing giants per day or trip, ex-vessel revenues could be decreased relative to Sub-Alternative I2b due to less overall weight of fish sold (all other things equal, such as shape, meat quality, etc.). Overall, the impacts are expected to be neutral, because the likelihood of such a change in revenue is low, due to the low likelihood of a trip scenario where the retention of five large medium fish would limit the ability for the vessel to retain giant bluefin.

Preferred Sub-Alternative I3a would maintain the June 1 start date and November 15 closure date for the Harpoon category season. This alternative may have both minor and beneficial, and adverse social and economic impacts, but overall the impacts would be minor and beneficial. The beneficial impacts could be attributed to the Harpoon category season remaining consistent with prior years. A June 1 start date for the Harpoon category means that the Harpoon and General Category seasons start at the same time. The Harpoon and General category seasons starting together would facilitate enforcement and business planning, and provide greater certainty to participants regarding opportunities, participation/effort, and potential impact on market prices. Participants would continue to have the potential to harvest the same percentage of the quota and earn the equivalent share of total ex-vessel revenues. The adverse impacts may result from lost opportunities. To the extent that bluefin may be available to harpoon gear prior to June 1, opportunities to harpoon fish may be lost, both from the harvest of the fish and the potential for better ex-vessel prices when there may be fewer fish on the market, particularly from the General category, which would not begin until June 1. To the extent that opportunities could extend deeper into the summer, more Harpoon category participants could benefit. It is possible that the No Action Alternative would have some adverse socioeconomic impacts on fishermen, dealers, and the support industries located in New England, where harpoon use has historically occurred, primarily on the fishing grounds off Massachusetts, New Hampshire, and Maine.

Sub-Alternative I3b would lengthen the season for the Harpoon category by implementing a May 1 start date for the fishery instead of the current start date of June 1. The November 15 closure date would remain the same. The overall impacts would be both minor and adverse, and beneficial. The relative magnitudes of the adverse and beneficial impacts are unknown. Starting the Harpoon category season in advance of the General category season (which would remain at June 1) could result in adverse impacts from increased uncertainty for enforcement, business planning, fishing opportunities, participation/effort, and potential impact on market prices. However, this alternative would increase the likelihood of Harpoon category participants being able to harvest the full Harpoon category quota and thus would be minor and beneficial. A potential increase in the geographic and temporal distribution of landings may help to more closely approach optimum yield. Increases in positive economic impacts would depend on the availability of bluefin to the fishery from the beginning of May until the Harpoon category quota (base or adjusted, as applicable) is reached. Recently, the price for Harpoon category bluefin has been higher in June than later in the season, so an earlier start date could be beneficial, although price per pound is also influenced by the amount of bluefin on the market. The value of an unused metric ton of Harpoon category landings is estimated at $11,838 using the 2019 average ex-vessel price of $5.37/lb, and $13,845 using the average 2017–2019 price ($6.28).

Sub-Alternative I4a would maintain the current provision that allows permit holders to change their Atlantic tunas or HMS permit category once within 45 days of the issuance of their permit, as long as they have not landed a bluefin.

The number of permit holders who might be impacted by this alternative is small, and any impacts would only be for one fishing season. However, for a subset of these permit holders, the impact can be very adverse, if an incorrect permit is obtained that prohibits a commercial fisherman from selling fish or a charter/headboat fisherman from taking paying passengers (*e.g.,* Angling category permit). In these instances, the impact is adverse, but minimal on a fishery-wide basis.

Preferred Sub-Alternative I4b would extend the ability to change permit categories from 45 days to the full fishing year as long as the vessel has not landed a bluefin. For the same reasons described under Sub-Alternative I4a, any impacts of this sub-alternative would be minimal on a fishery-wide basis, but would promote increased flexibility and could be beneficial for a small subset of permit holders.

Sub-Alternative I5a would make no changes to the current regulations that preclude vessels authorized to fish with pelagic longline gear from retaining bluefin caught with green-stick gear. An analysis of self-reported logbook data from sets made with green-stick gear suggest that a small number of vessels use this gear, although the number of unique pelagic longline vessels that use green-stick gear has increased with time. There were no sets reported in 2015 that were attributed to the use of this gear type. The economic impacts of the No Action Alternatives would be minor and adverse for a small number of vessels. Based on logbook data, in 2016 only as single pelagic longline vessels fished with green-stick gear.

Sub-Alternative I5b would clarify retention and reporting requirements for bluefin caught with green-stick gear by vessels with Atlantic Tunas Longline category permits, to allow the retention of one bluefin per trip (73″ or greater), provided that pelagic longline gear is not onboard, and that vessels comply with additional regulations applicable to such trips (*i.e.,* VMS set reports, HMS logbook requirements, and IBQ program requirements). This alternative is anticipated to have minor and adverse economic impacts to fishermen, who may want the flexibility to adapt fishing strategies to the conditions on a particular trip. However, as noted above, there appears to be only a very small number of fishermen wishing to use both green-stick and pelagic longline gear, and there is little information regarding the costs and benefits of having different types of gear onboard. Relevant factors for selecting one gear type may include target species, market factors, available deck space, cost of the gear, and trip length. Green-stick gear selection by fishermen targeting yellowfin could maximize economic returns and efficiency, or reflect adherence to specific requirements if fishing under the Deepwater Horizon OFRP in the Gulf of Mexico.

Preferred Sub-Alternative I5c clarifies retention and reporting requirements for bluefin caught with green-stick gear (by vessels with Longline category permits), to allow the retention of one bluefin per trip (of 73″ or greater CFL) and with additional regulations (*i.e.,* VMS set reports, HMS logbook requirements, IBQ program requirements) applying to such trips. This alternative would allow both green-stick and pelagic longline gear on the same vessel at the same time. In comparison to the No Action Alternative, this alternative would have minor, beneficial economic impacts because a vessel would be able to retain a legal-sized bluefin that may otherwise be discarded dead due to a *de facto* prohibition on bluefin retention. Retention of such fish would reduce waste, augment revenue, and reduce the frustration associated with regulatory discarding. Allowing the use of green-stick gear while pelagic longline gear is onboard is intended to provide vessel operators flexibility to employ fishing strategies with multiple gear types to optimize their business in a highly dynamic fishery. Green-stick gear selection by fishermen targeting yellowfin could maximize economic returns and efficiency, or reflect participation in the Deepwater Horizon OFRP in the Gulf of Mexico and the associated gear requirement that prohibit use of pelagic longline gear during the period of participation. As noted above, there appears to be only a very small number of fishermen wishing to use both green-stick and pelagic longline gear, and there is little information regarding the costs and benefits of having different types of gear onboard.

Paperwork Reduction Act

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) (PRA). An agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement, unless it displays a currently valid OMB control number.

This rule would change the existing requirements for collection-of-information under OMB Control Number 0648–0372 by modifying the VMS reporting requirement for vessels issued an Atlantic Tunas Longline permit that are fishing with green-stick gear. Such vessels would be required to submit a VMS set report for each green-stick retrieval that interacts with bluefin and report information on the location and the numbers, length range, and disposition of bluefin within 12 hours (caught using green-stick gear, in addition to the VMS reports for pelagic longline sets). This requirement would increase the number of responses by only 18 per year, because of the low number of vessels expected to use green-stick gear (up to 3 vessels), and the low rate of bluefin incidental catch. This requirement would not change the total number of respondents and would have a de minimus impact on total costs. Public reporting burden for bluefin catch and effort is estimated to average 5 minutes per individual response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Secondly, this proposed rule would remove collection of information approved under OMB Control Number 0648–0372 and associated with the requirements for vessels fishing with purse seine gear to report bluefin information through VMS, because this rule would eliminate the provisions that allow fishing with purse seine gear. The removal of this requirement would reduce the total burden by six hours and reduce the estimated burden cost by two thousand dollars.

This rule would revise the existing requirements for collection-of-information approved under OMB Control Number 0648–0040 by removing two aspects of the dealer reporting requirements for the IBQ Program. First, this rule would eliminate the current requirement that vessel operators or owners confirm that the landing report information entered into the IBQ system by the dealer is accurate, by entering the PIN associated with the vessel account. Secondly, this rule would remove the requirement that any pelagic longline vessel owner or operator who discarded dead bluefin is required to also enter dead discard information from the trip by coordinating with the dealer and entering that trip's dead discard information into the online IBQ system via the dealer account. The vessel operator will continue to be required to report dead discard information via VMS while at sea. NMFS estimates that the number of small entities that would

be subject to these requirements would include participants in the Longline category. As of March 2020, a total of 280 Atlantic Tunas Longline category limited access permits have been issued. It is likely that the number of vessels that would actually be affected by these requirements would not be larger than 60 vessels. Since 2017, no more than 58 different pelagic longline vessels have landed bluefin tuna.

This rule would implement new collection-of-information requirements for Atlantic Tunas Longline permit holders that land bluefin. Annually, NMFS would estimate its incremental costs associated with the IBQ Program (including costs associated with the cost recovery program) and the total ex-vessel value of bluefin harvested under the Program, and notify the public whether a cost recovery fee will be charged for the year. If NMFS determines an annual cost recovery fee is warranted, NMFS would send bills to permit holders that sold bluefin to dealers. Permit holders would be billed based on the ex-vessel value of the bluefin sold by that vessel, and would pay the cost recovery fee through the Catch Shares On-line Program website and the associated *pay.gov* link. NMFS estimates that the number of small entities that could be subject to new cost recovery requirements would include all Atlantic tuna longline permit holders than landed bluefin, which is not likely to exceed 60 vessels, based on 2017 through 2019 IBQ Program data. Public reporting burden for cost recovery is estimated to average 15 minutes per individual response, including the time for logging onto the relevant online website, reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden is estimated to be 15 hours.

NMFS seeks public comment on: Whether these proposed collection-of-information requirements are necessary for the proper performance of the functions of NMFS, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information, including through the use of automated collection techniques or other forms of information technology. Comments on these or any other aspects of the collection-of-information may be submitted with comments to this rule (see **ADDRESSES** section above) or via *www.reginfo.gov/public/do/PRAMain.*

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

List of Subjects

50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fish, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: May 10, 2021.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR parts 600 and 635 are proposed to be amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

§ 600.725 [Amended]

■ 2. In § 600.725,amend the table in paragraph (v), under heading ''IX. Secretary of Commerce,'' by removing the entry for ''Tuna purse seine fishery''.

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 3. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.;* 16 U.S.C. 1801 *et seq.*

■ 4. In § 635.2:
■ a. Add in alphabetical order the definition of ''BFT'';
■ b. Revise the definition for ''CFL'';
■ c. Add in alphabetical order, the definitions of ''Electronic Monitoring (EM) system'', and ''IBQ'';
■ d. Revise the definition of ''Northeast Distant gear restricted area'';
■ e. Add in alphabetical order the definition of ''Vessel Monitoring Plan (VMP)''.

The additions and revisions read as follows:

§ 635.2 Definitions.

* * * * *

BFT means Atlantic bluefin tuna as defined in § 600.10 of this part.

* * * * *

CFL (curved fork length) means the length of a fish measured from the tip of the upper jaw to the fork of the tail along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel (*i.e.,* in dorsal direction above caudal keel).

* * * * *

Electronic monitoring (EM) system means a system of video cameras and recording and other related equipment installed on a vessel.

* * * * *

IBQ (Individual Bluefin Quota) refers to limited access privileges under the IBQ Program (§ 635.15), implemented for the management of Atlantic bluefin tuna incidentally caught by Atlantic Tunas Longline category LAP holders.

* * * * *

Northeast Distant gear restricted area (NED) means the Atlantic Ocean area bounded by straight lines connecting the following coordinates in the order stated: 35°00′ N lat., 60°00′ W long.; 55°00′ N lat., 60°00′ W long.; 55°00′ N lat., 20°00′ W long.; 35°00′ N lat., 20°00′ W long.; 35°00′ N lat., 60°00′ W long.

* * * * *

Vessel Monitoring Plan (VMP) means an on-board, EM system reference document required by § 635.9(e)(1).

* * * * *

■ 5. In § 635.4:
■ a. Revise paragraphs (d)(1) and (2);
■ b. remove paragraph (d)(5); and
■ c. Revise paragraph (j)(3).

The revisions read as follows:

§ 635.4 Permits.

* * * * *

(d) * * *

(1) The owner of each vessel used to fish for or take Atlantic tunas commercially or on which Atlantic tunas are retained or possessed with the intention of sale must obtain an HMS Charter/Headboat category permit with a commercial sale endorsement issued under paragraph (b) of this section, an HMS Commercial Caribbean Small Boat permit issued under paragraph (o) of this section, or an Atlantic tunas permit in one, and only one, of the following categories: General, Harpoon, Longline, or Trap.

(2) Persons aboard a vessel with a valid Atlantic Tunas, HMS Angling, HMS Charter/Headboat, or an HMS Commercial Caribbean Small Boat permit may fish for, take, retain, or possess Atlantic tunas, but only in compliance with the quotas, catch

limits, size classes, and gear applicable to the permit or permit category of the vessel from which he or she is fishing. Persons may sell Atlantic tunas only if the harvesting vessel has a valid permit in the General, Harpoon, Longline, or Trap category of the Atlantic Tunas permit, a valid HMS Charter/Headboat category permit with a commercial sale endorsement, or an HMS Commercial Caribbean Small Boat permit.

* * * * *

(j) * * *

(3) A vessel owner issued an Atlantic Tunas permit in the General, Harpoon, or Trap category or an Atlantic HMS permit in the Angling or Charter/Headboat category under paragraph (b), (c), or (d) of this section may change the category of the vessel permit at any time during the fishing year, provided the vessel has not landed BFT during that fishing year as verified by NMFS via landings data.

* * * * *

■ 6. In § 635.5, revise paragraphs (a)(3) and (6), and (b)(2)(i)(A) to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(3) *Bluefin tuna landed by a commercial vessel and not sold.* If a person who catches and lands a large medium or giant bluefin tuna from a vessel issued a permit in any of the commercial categories for Atlantic tunas does not sell or otherwise transfer the bluefin tuna to a dealer who has a dealer permit for Atlantic tunas, the person must contact a NMFS enforcement agent, as instructed by NMFS, immediately upon landing such bluefin tuna, provide the information needed for the reports required under paragraph (b)(2)(i) of this section, and, if requested, make the tuna available so that a NMFS enforcement agent or authorized officer may inspect the fish and attach a tag to it. Alternatively, such reporting requirement may be fulfilled if a dealer who has a dealer permit for Atlantic tunas affixes a dealer tag as required under paragraph (b)(2)(ii) of this section and reports the bluefin tuna as being landed but not sold on the reports required under paragraph (b)(2)(i) of this section. If a vessel is placed on a trailer, the person must contact a NMFS enforcement agent, or the bluefin tuna must have a dealer tag affixed to it by a permitted Atlantic tunas dealer, immediately upon the vessel being removed from the water. All bluefin tuna landed but not sold will be accounted against the quota category according to the permit category of the vessel from which it was landed.

* * * * *

(6) *Atlantic Tunas Longline category permitted vessels.* The owner or operator of a vessel issued, or that should have been issued, an Atlantic Tunas Longline category permit is subject to the VMS reporting requirements under § 635.69(e)(4) and the applicable Individual Bluefin Quota Program and/or leasing requirements under § 635.15(a).

(b) * * *

(2) * * *

(i) * * *

(A) *Landing reports.* Each dealer with a valid Atlantic Tunas dealer permit issued under § 635.4 must submit the landing reports to NMFS for each BFT received from a U.S. fishing vessel. Such reports must be submitted as instructed by NMFS not later than 24 hours after receipt of the BFT. Landing reports must include the name and permit number of the vessel that landed the BFT and other information regarding the catch as instructed by NMFS. When purchasing BFT from eligible IBQ Program participants, permitted Atlantic Tunas dealers must enter landing reports into the Catch Shares Online System established under § 635.15, not later than 24 hours after receipt of the BFT. The dealer must inspect the vessel's permit to verify that it is a commercial category, that the required vessel name and permit number as listed on the permit are correctly recorded in the landing report, and that the vessel permit has not expired.

* * * * *

■ 7. In § 635.9:

■ a. Revise paragraphs (a), (b)(2) introductory text, (c)(1)(ii), (c)(6);

■ b. Add paragraph (c)(7); and

■ c. Revise paragraph (e).

The addition and revisions read as follows:

§ 635.9 Electronic Monitoring.

* * * * *

(a) *Applicability.* An owner and/or operator of a commercial vessel permitted or required to be permitted in the Atlantic Tunas Longline category under § 635.4, and that has pelagic longline gear on board, are required to have installed and maintain at all times during fishing trips, a fully operational EM system on the vessel, as specified in this section. Vessel owners and/or operators can contact NMFS or a NMFS-approved contractor for more details on procuring an EM system.

(b) * * *

(2) Vessel owners and/or operators, as instructed by NMFS, may be required to coordinate with NMFS or a NMFS approved contractor to schedule a date or range of dates, and/or may be required to steam to a designated port for EM work on specific NMFS-determined dates. Such EM work may include, but is not limited to EM system installation, repair, or modifications; modifications to vessel equipment to facilitate installation or operation of EM systems, such as installation of a fitting for the pressure-side of the line of the drum hydraulic system; installation, repair or modification to a power supply or power switches/connections for the EM system; installation of additional lighting; or installation of mounting structure(s) for the camera(s) to provide views of areas and fish consistent with paragraphs (c)(1)(i)–(ii).

* * * * *

(c) * * *

(1) * * *

(ii) Video camera(s) must be in sufficient numbers (a minimum of two and up to four), with sufficient resolution (no less than 720p (1280 × 720)) for NMFS, the USCG, and their authorized officers and designees, or any individual authorized by NMFS to determine the number and species of fish harvested. To obtain the views required in paragraph (c)(1)(i), at least one camera must be mounted to record close-up images of fish being retained on the deck at the haulback station, and at least one camera must be mounted to provide views of the area from the rail to the water surface, where the gear and fish are hauled out of the water. NMFS or the NMFS-approved contractor will determine the number and placement of cameras needed to achieve the required view, based on the operation and physical layout of the vessel.

* * * * *

(6) *EM software.* The EM system must have software that enables the system to be tested for functionality and that records the outcome of the tests.

(7) *Standardized Reference Grid.* The vessel must have a standardized grid on deck in view of the haulback station camera(s) in such a way that the video recording includes an image of each fish on the grid in order to provide a size reference. The standardized grid may be on a removable mat that is placed on the deck before the fish are brought on board, or be painted directly on the deck. The standardized reference grid must have accurate dimensions and grid line intervals as instructed and specified by NMFS via electronic methods, such as email and/or a letter. The vessel owner and/or operator is responsible for ensuring compliance with NMFS instructions and specifications and for

ensuring accurate, straight, clear and complete grid lines with no missing, incomplete, blurry or smudged lines.

* * * * *

(e) *Operation.* Unless otherwise authorized by NMFS in writing, a vessel described in paragraph (a) of this section must collect video and sensor data in accordance with the requirements in this section, in order to fish with pelagic longline gear.

(1) *Vessel monitoring plan.* The vessel owner and/or operator must have available onboard a written VMP for its system. At a minimum, VMPs must include: Information on the locations of EM system components; contact information for technical support; instructions on how to conduct a pre-trip system test; instructions on how to verify proper system functions; location(s) on deck where fish retrieval should occur to remain in view of the cameras; procedures for how to manage EM system hard drives; catch handling procedures; periodic checks of the monitor during the retrieval of gear to verify proper functioning; and reporting procedures. The VMP should minimize to the extent practicable any impact of the EM systems on the current operating procedures of the vessel, and should help ensure the safety of the crew.

(2) *Handling of fish and duties of care.* The vessel owner and/or operator must ensure that all fish that are caught, even those that are released, are handled in a manner that enables the video system to record such fish, and must ensure that all handling and retention of BFT occurs in accordance with relevant regulations and the operational procedures outlined in the VMP. The vessel owner or operator must ensure that each retained fish is placed on the standardized reference grid in view of cameras in accordance with NMFS instructions and the operational procedures outlined in the VMP.

(3) *Additional duties of care.* The vessel owner and/or operator is responsible for ensuring the proper continuous functioning of all aspects of the EM system, including that the EM system must remain powered on for the duration of each fishing trip from the time of departure to time of return; cameras must be functioning and cleaned routinely; the hydraulic and gear sensors must be operational; the GPS signal must be functioning; and EM system components must not be tampered with.

(4) *Completion of trip(s).* Except when at capacity after one trip or otherwise stated by NMFS in writing, EM hard drives may be used to record up to two trips. Within 48 hours of completing a second fishing trip, or within 48 hours of completing one trip in the case where the hard drive does not have sufficient capacity for a second trip, the vessel owner and/or operator must mail the removable EM system hard drive(s) containing all data to NMFS or NMFS-approved contractor, according to instructions provided by NMFS. The vessel owner and/or operator is responsible for using shipping materials suitable to protect the hard drives (*e.g.,* bubble wrap), tracking the package, and including a self-addressed mailing label for the next port of call so replacement hard drives can be mailed back to the sender. Prior to departing on any trip, the vessel owner and/or operator must ensure an EM system hard drive(s) is installed that has the capacity needed to enable data collection and video recording for the entire trip. The vessel owner and/or operator is responsible for contacting NMFS or NMFS-approved contractor if they have requested but not received a replacement hard drive(s) and for informing NMFS or NMFS-approved contractor of any lapse in the hard drive management procedures described in the VMP.

* * * * *

■ 8. Revise § 635.15 to read as follows:

§ 635.15 Individual bluefin tuna quotas (IBQs).

(a) *General.* This section describes the IBQ Program. As described below, under the IBQ program, NMFS will assign eligible Atlantic Tunas Longline category LAP holders annual IBQ shares and resulting allocations. IBQ allocations are required for vessels with Atlantic Tunas Longline category permits to fish with pelagic longline or green-stick gear. IBQ allocations may be leased by IBQ shareholders and other eligible Atlantic Tunas Longline category LAP holders using the Catch Shares Online System.

(b) *Eligibility*—(1) *Vessels determined to be active.* Atlantic Tunas Longline category LAP holders whose valid permit is associated with a vessel that is determined by NMFS to be ''active'' at any time during the most recent 36 months of available data, is eligible to receive an annual IBQ share. The three-year period is a rolling period that changes annually. ''Active'' vessels are those vessels that have used pelagic longline or greenstick gear and have designated species landings (swordfish and yellowfin, bigeye, albacore, and skipjack tunas), based on data that NFS determines to be the best available data (such as dealer and vessel reported data). In determining a permitted vessel's annual IBQ share eligibility and calculating the annual IBQ share, NMFS will use the data associated with the qualifying vessel's history (and not the permit). If the relevant data indicates that a particular vessel used pelagic longline or green-stick gear and had designated species landings during the relevant three-year period period, and the vessel was issued a valid Atlantic Tunas Longline category LAP when the landings occurred, the current permit holder is qualified to receive an annual IBQ share.

(2) *Vessels determined to be inactive.* The current Atlantic Tunas Longline category LAP holder is not eligible to receive an annual IBQ share for a vessel, unless the data associated with that vessel's history supports the determinations under paragraph (b)(1) of this section. For that vessel, any fishing with pelagic longline gear by the current permit holder on a different vessel is irrelevant. Atlantic Tunas Longline category LAP holders that are ineligible to receive an annual IBQ share need to lease IBQ allocation per paragraph (e) of this section, as well as meet all other applicable requirements, before the vessel could fish with or possess pelagic longline or green-stick gear onboard.

(3) *New Entrants.* New entrants to the fishery need to obtain an Atlantic Tunas Longline category LAP, as well as other required LAPs, as described under § 635.4(l), and would need to lease IBQ allocations per paragraph (e) of this section if the Atlantic Tunas Longline category LAP acquired did not qualify for an annual IBQ share.

(c) *Annual IBQ Share Determination.* During the last quarter of each year, NMFS will review the available data for each permitted vessel's landings of designated species during the relevant three-year period, and assign IBQ shares based on the criteria described in this paragraph.

(1) *IBQ Share Calculations.* With the exception of permit holders described in paragraph (c)(2) of this section, for each eligible vessel, NMFS will calculate IBQ shares using the following multi-step process. First, based upon the total weight of each vessel's designated species landings during the relevant three-year period, NMFS will calculate the relative amount (as a percentage) those landings represent compared to the total amount of designated species landings by all eligible vessels. Second, NMFS will rank the percentages associated with each vessel, and assign each vessel to one of four quartiles. Third, NMFS will calculate the IBQ share percentage associated with each quartile, based upon the percentage of total landings in each quartile and number of vessels in each quartile.

NMFS will assign each quartile's IBQ share percentage to each eligible vessel owner in that quartile, who is now a share recipient, as the vessel owner's annual IBQ share percentage, unless adjusted under paragraph (c)(3)(ii) or paragraph (e) of this section. This annual IBQ share percentage is used to calculate the annual IBQ allocation (see paragraph (d) of this section).

(2) *Proxy calculation for Deepwater Horizon Oceanic Fish Restoration Project participants.* For valid participants in this Project, the annual IBQ shares will be calculated as described in paragraph (c)(1) of this section, except that a proxy for designated species landings will be added to the participating vessel's history during the time of its participation. The proxy will be based upon non-participant designated species landings during the time that participants fished under the Project.

(3) *Regional designations of IBQ shares.* All IBQ shares and resultant allocations are designated as either ''GOM'' (Gulf of Mexico) or ''ATL'' (Atlantic), based upon whether eligible vessels' designated species landings during the relevant three-year period came from the Gulf of Mexico or Atlantic region. The overall percentage of designated species landings for each region, unless modified by the GOM share cap described below, will determine each region's total shares and resultant allocations. Per § 635.28(a)(1), NMFS will file a closure action when a region's IBQ allocations have been caught or are projected to be caught. For the purposes of this section, the Gulf of Mexico region includes all waters of the U.S. Exclusive Economic Zone (EEZ) west and north of the boundary stipulated at 50 CFR 600.105(c) and the Atlantic region includes all other waters of the Atlantic Ocean including fishing taking place in the NED defined at § 635.2. If a permitted vessel had fishing history in both the Gulf of Mexico and Atlantic, it could receive both GOM and ATL shares. If NMFS determines that a permit holder's regional IBQ share would result in a regional allocation that is less than the minimum amount required to fish in an area (*i.e.,* less than 0.125 mt for the Atlantic or less than 0.25 mt for the Gulf of Mexico as provided under paragraph (f)(2)(i) of this section), NMFS would redesignate the share and allocation to the other regional designation.

(i) *GOM share cap.* The maximum amount of designated GOM IBQ shares among all shareholders is capped at 35 percent of the baseline Longline category quota. Based on the criteria and process under § 635.27(a)(7), NMFS may make an inseason or annual adjustment to reduce the cap for all, or the remainder of a calendar year.

(ii) *Adjustment of GOM shares to match the GOM share cap.* If NMFS determines that the total amount of GOM-designated IBQ shares would be greater than the GOM share cap, NMFS will reduce the total amount of GOM shares in order to equal the GOM share cap. The reduction in total GOM shares will be achieved through equal proportional reductions among all GOM shareholders. NMFS will adjust the GOM share percentages downward, equally across the four share percentages, to reflect the maximum amount of shares that can be issued for the Gulf of Mexico. The ATL shares will be increased in an analogous manner, so that the total share percentages for the two regions add up to 100 percent. NMFS will notify affected shareholders of any reductions in their GOM share or increases in ATL share resulting from this adjustment. This adjustment is not subject to appeal under paragraph (e)(1)(i) of this section.

(d) *Annual IBQ allocations.* An annual IBQ quota allocation is the amount of BFT (whole weight) in metric tons (mt) that an eligible IBQ share recipient (*i.e.,* a share recipient who has associated their permit with a vessel) is allotted to account for incidental landings and dead discards of BFT during a specified calendar year. Unless otherwise required under paragraph (f)(4) of this section, an Atlantic Tunas Longline permitted vessel's annual IBQ allocation for a particular year is derived by multiplying its IBQ share percentage (calculated under paragraph (c) of this section) by the baseline Longline category quota for that year.

(e) *Notification of IBQ shares and allocations, appeals, and adjustments.* During the last quarter of each year, NMFS will notify Atlantic Tunas Longline permit holders via electronic methods (such as an email) and/or letter to inform them of their IBQ share, their IBQ allocation, and the regional designations of those shares and allocations for the subsequent fishing year. This notification represents the initial administrative determination (IAD) for the permit holder's IBQ share and allocation. NMFS will also notify permit holders of any existing quota debt, and provide instructions for appealing the IAD. Eligible Atlantic Tunas Longline category LAP holders that have not completed the process of permit renewal or permit transfer as of December 31 will be issued IBQ allocation for the relevant fishing year upon completion of the permit renewal or permit transfer, provided the eligible permit is associated with a vessel. IBQ shares, allocations, and regional designations may change as a result of the following circumstances, in which case NMFS will notify eligible IBQ recipients.

(1) *Appeals.* Appeals will be governed by the regulations and policies of the National Appeals Office at 15 CFR part 906. Per those regulations, Atlantic Tunas Longline Permit holders may appeal the IAD by submitting a written request for an appeal to the National Appeals Office within 45 days after the date the IAD is issued. NMFS will provide further instructions on how to submit a request for an appeal when it issues the IAD.

(i) *Items Subject to Appeal and Adjustment.* A permit holder may appeal: Eligibility for quota shares based on ownership of an active vessel with a valid Atlantic Tunas Longline category permit combined with the required shark and swordfish limited access permits; IBQ shares; IBQ allocations; regional designations of shares and allocations; the vessel's amount of designated species landings; and assignment of designated species landings to the vessel owner/permit holder. Appeals based on hardship factors would not be considered. Consistent with most limited effort and catch share programs, hardship is not a valid basis for appeal due to the multitude of potential definitions of hardship and the difficulty and complexity of administering such criteria in a fair manner. NMFS may utilize bluefin quota from the Reserve category for an adjustment needed due to an appeal.

(ii) *Supporting Documentation for Appeals.* NMFS permit records would be the sole basis for determining permit transfers. Documentation of legal landings of designated species during the timeframe analyzed by NMFS in determining shareholders, would be via official NMFS logbook records or weighout slips for landings. Landings data are required to be submitted within 7 days of landing under the applicable regulations. Recognizing that somewhat-late reporting could have occurred for a variety of reasons, however, NMFS is clarifying that it will consider ''documented'' landings for appeals purposes to be those reported within 60 days of landing. NMFS would count only those designated species landings that were landed legally when the owner had a valid permit. Appeals based on landings data or permit history would be based on NMFS logbook data, weighout slips, verifiable sales slips, receipts from registered dealers, state landings records, and permit records.

No other proof of catch, landings and permit history would be considered. Photocopies of the written documents are acceptable; NMFS may request the originals at a later date. NMFS would refer any submitted materials that are of questionable authenticity to the NMFS Office of Law Enforcement for investigation into potential violations of Federal law.

(2) *Inseason quota transfers.* NMFS may transfer additional quota to the Longline category inseason as authorized under § 635.27(a), and in accordance with §§ 635.27(a)(7) and (8). NMFS may distribute the quota that is transferred inseason to the Longline category either to all IBQ share recipients or to permitted Atlantic Tunas Longline category LAP vessels that are determined by NMFS to have any recent fishing activity based on participation in the pelagic longline fishery. In making this determination, NMFS will consider factors for the subject and previous year such as the number of BFT landings and dead discards, the number of IBQ lease transactions, the average amount of IBQ leased, the average amount of quota debt, the annual amount of IBQ allocation, any previous inseason allocations of IBQ allocation, the amount of BFT quota in the Reserve category (at § 635.27(a)(6)(i)), the percentage of BFT quota harvested by the other quota categories, the remaining number of days in the year, the number of active vessels fishing not associated with IBQ share, and the number of vessels that have incurred quota debt or that have low levels of IBQ allocation. NMFS will determine if a vessel has any recent fishing activity based upon the best available information for the subject and previous year, such as logbook, vessel monitoring system, or electronic monitoring data. Any distribution of quota transferred inseason will be equal among eligible IBQ share recipients, or active vessels.

(i) *Regional designation of inseason quota distributions for share recipients.* Regional designations described in paragraph (c)(3) of this section will be applied to inseason quota distributed to IBQ share recipients, and subject to the cap specified in paragraph (c)(3)(i).

(ii) *Regional designation of inseason quota distributions for vessels without shares.* For permitted Atlantic Tunas Longline category LAP vessels with recent fishing activity that are not eligible IBQ share recipients, regional designations of ATL or GOM will be applied to the distributed quota based on best available information regarding geographic location of designated species landings as reported to NMFS during the period of fishing activity analyzed above in this paragraph, with the designation based on where the majority of that activity occurred.

(f) *Using IBQ Shares and Allocations.* Unless specified otherwise, IBQ shares and resultant allocations will be available for use at the start of each fishing year. IBQ shares and allocations expire at the end of each calendar year. IBQ shares and allocation issued under this section are valid for the relevant fishing year unless revoked, suspended, or modified or unless the Atlantic Tunas Longline category quota is closed per § 635.28(a).

(1) *Usage of GOM and ATL shares and allocations.* GOM shares and resultant allocations can be used to satisfy minimum IBQ allocation requirements under paragraph (f)(2) of this section, or to account for BFT caught with pelagic longline gear in either the Gulf of Mexico or the Atlantic regions. ATL shares and resultant allocations can only be used to satisfy minimum IBQ allocation requirements under paragraph (f)(2) of this section, or to account for BFT caught with pelagic longline gear in the Atlantic region. For the purposes of this section, the Gulf of Mexico region includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c) and the Atlantic region includes all other waters of the Atlantic Ocean including fishing taking place in the NED defined at § 635.2.

(2) *Minimum IBQ allocation.* For purposes of this section, calendar year quarters start on January 1, April 1, July 1, and October 1.

(i) *First fishing trip in a calendar year quarter.* Before departing on the first fishing trip in a calendar year quarter, a vessel with an eligible Atlantic Tunas Longline category permit that fishes with or has pelagic longline or green-stick gear onboard must have the minimum IBQ allocation for either the Gulf of Mexico or Atlantic, depending on fishing location. The minimum GOM allocation for a vessel fishing in the Gulf of Mexico, or departing for a fishing trip in the Gulf of Mexico, is 0.25 mt ww (551 lb ww). The minimum ATL or GOM allocation for a vessel fishing in the Atlantic or departing for a fishing trip in the Atlantic is 0.125 mt ww (276 lb ww). A vessel owner or operator may not declare into or depart on the first fishing trip in a calendar year quarter with pelagic longline gear onboard unless the vessel has the relevant required minimum IBQ allocation for the region in which the fishing activity will occur.

(ii) *Subsequent fishing trips in a calendar year quarter.* Subsequent to the first fishing trip in a calendar year quarter, a vessel owner or operator may declare into or depart on other fishing trips with pelagic longline gear onboard with less than the relevant minimum IBQ allocation for the region in which the fishing activity will occur, but only within that same calendar year quarter.

(3) *Accounting for bluefin tuna that were landed or discarded dead.* The following requirements apply to Atlantic Tunas Longline permit holders fishing with pelagic longline or green-stick gear regarding accounting for all BFT landings and dead discards from a vessel's IBQ allocation.

(i) *Catch deduction from IBQ allocations.* Except as provided under paragraph (f)(6)(i) of this section, for vessels fishing in the NED, all bluefin tuna landings must be deducted from the vessel's IBQ allocation at the end of each trip by providing information to, and coordinating with the dealer. Dead discards will be deducted from the vessel's IBQ allocation by the Catch Shares Online System, provided the vessel operator reports dead discards through VMS as required under paragraph 635.69(e)(4)(i).

(ii) *When catch exceeds IBQ allocation.* If the amount of bluefin tuna landed and discarded dead on a particular trip exceeds the amount of the vessel's IBQ allocation or results in an IBQ balance less than the minimum amount described in paragraph (f)(2) of this section, the vessel may continue to fish, complete the trip, and depart on subsequent trips within the same calendar year quarter. The vessel must resolve any quota debt (see paragraph (f)(4) of this section) before declaring into or departing on a fishing trip with pelagic longline gear onboard in a subsequent calendar year quarter by acquiring adequate IBQ allocation to resolve the debt and acquire the needed minimum allocation through leasing, as described in paragraph (g) of this section.

(iii) *Dealer requirements; End of year transactions.* Federal Atlantic Tunas Dealer permit holders must comply with reporting requirements at § 635.5(b)(2)(i)(A). No IBQ transactions will be processed between 6 p.m. eastern time on December 31 and 2 p.m. Eastern Time on January 1 of each year to provide NMFS time to reconcile IBQ accounts and update IBQ shares and allocations for the upcoming fishing year.

(4) *Exceeding an available allocation.* If the amount of BFT landed or discarded dead for a particular trip (as defined at § 600.10 of this chapter) exceeds the amount of IBQ allocation available to the vessel, the permitted

vessel is considered to have a ''quota debt'' equal to the difference between the catch and the allocation.

(i) *Quarter level quota debt.* A vessel with quota debt incurred in a given calendar year quarter cannot depart on a trip with pelagic longline gear onboard in a subsequent calendar year quarter until the vessel leases allocation or receives additional allocation (see paragraphs (e) and (g) of this section), and applies allocation for the appropriate region to settle the quota debt such that the vessel has the relevant minimum quota allocation required to fish for the region in which the fishing activity will occur (see paragraph (f)(2) of this section). For example, a vessel with quota debt incurred during January through March may not depart on a trip with pelagic longline gear onboard during April through June (or subsequent quarters) until the quota debt has been resolved such that the vessel has the relevant minimum quota allocation required to fish for the region in which the fishing activity will occur.

(ii) *Annual level quota debt.* If, by the end of the fishing year, a permit holder does not have adequate IBQ allocation to settle its vessel's quota debt through leasing or additional allocation (see paragraphs (e) and (g) of this section), the vessel's allocation will be reduced in the amount equal to the quota debt in the subsequent year or years until the quota debt is fully accounted for. A vessel may not depart on any pelagic longline trips if it has outstanding quota debt from a previous fishing year.

(iii) *Association with permit.* Quota debt is associated with the vessel's Atlantic Tunas Longline permit, and remains associated with the permit if/when the permit is transferred or sold. At the end of the year, if an owner with multiple permitted vessels has a quota debt associated with one or more vessels owned, the IBQ system will apply any remaining unused IBQ allocation associated with that owner's other vessels to resolve the quota debt.

(5) *Unused IBQ allocation.* Any IBQ allocation that is unused at the end of the fishing year may not be carried forward by a permit-holder to the following year, but would remain associated with the Longline category as a whole, and subject to the quota regulations under § 635.27, including annual quota adjustments.

(6) *The IBQ Program and the NED.* The following restrictions apply to vessels fishing with pelagic longline gear in the NED:

(i) *When NED BFT quota is available.* Permitted vessels fishing with pelagic longline or green-stick gear may fish in the NED, and any BFT catch will count toward the ICCAT-allocated separate NED quota, and will not be subject to the BFT accounting requirements of paragraph (f)(3) of this section, until the NED quota has been filled. Permitted vessels fishing in the NED must still fish in accordance with all other IBQ Program requirements, including the relevant minimum IBQ allocation requirements specified under paragraph (f)(2) of this section to depart on a trip using pelagic longline or green-stick gear.

(ii) *When NED BFT quota is filled.* Permitted vessels fishing with pelagic longline or green-stick gear may fish in the NED after the ICCAT-allocated separate NED quota has been filled but must abide by all IBQ Program requirements. Notably, when the NED BFT quota is filled, the BFT accounting requirement of paragraph (f)(3) of this section is applicable. BFT catch must be accounted for using the vessel's ATL or GOM IBQ allocation, as described under paragraphs (f)(1) of this section.

(g) *IBQ Allocation Leasing*—(1) *Eligibility.* The permit holders of vessels issued valid Atlantic Tunas Longline category LAPs are eligible to lease IBQ allocation to and/or from each other. A person who holds an Atlantic Tunas Longline category LAP that is not associated with a vessel may not lease IBQ allocation.

(2) *Application to lease*—(i) *Application information requirements.* All IBQ allocation leases must occur electronically through the Catch Shares Online System, and include all information required by NMFS.

(ii) *Approval of lease application.* Unless NMFS denies an application to lease IBQ allocation according to paragraph (g)(2)(iii) of this section, the Catch Shares Online System will provide an approval code to the IBQ lessee confirming the transaction.

(iii) *Denial of lease application.* NMFS may deny an application to lease IBQ allocation for any reason, including, but not limited to: The application is incomplete; the IBQ lessor or IBQ lessee is not eligible to lease per paragraph (g)(1) of this section; the IBQ lessor or IBQ lessee permits is sanctioned pursuant to an enforcement proceeding; or the IBQ lessor has an insufficient IBQ allocation available to lease (*i.e.,* the requested amount of lease may not exceed the amount of IBQ allocation associated with the lessor). As the Catch Shares Online System is automated, if any of the criteria above are applicable, the lease transaction will not be allowed to proceed. The decision by NMFS is the final agency decision; there is no opportunity for an administrative appeal.

(3) *Conditions and restrictions of leased IBQ allocation*—(i) *Subleasing.* In a fishing year, an IBQ allocation may be leased numerous times following the process specified in paragraph (g)(2) of this section.

(ii) *History of leased IBQ allocation use.* The fishing history associated with the catch of BFT will be associated with the vessel that caught the BFT, regardless of how the vessel acquired the IBQ allocation (*e.g.,* through initial allocation or lease), for the purpose of any relevant restrictions based upon BFT catch.

(iii) *Duration of IBQ allocation lease.* IBQ allocations expire at the end of each calendar year. Thus, an IBQ lessee may only use the leased IBQ allocation during the fishing year in which the IBQ allocation is applicable.

(iv) *Temporary prohibition on leasing IBQ allocation.* No leasing of IBQ allocation is permitted between 6 p.m. eastern time on December 31 of one year and 2 p.m. eastern time on January 1 of the next year. This period is necessary to provide NMFS time to reconcile IBQ accounts, and update IBQ shares and allocations for the upcoming fishing year.

(h) *Sale of IBQ shares.* Sale of IBQ shares is not permitted.

(i) *Changes in vessel and permit ownership.* In accordance with the regulations specified under § 635.4(l), a vessel owner that has an IBQ share may transfer the Atlantic Tunas Longline category LAP to another vessel that he or she owns or transfer the permit to another person. The IBQ share as described under this section would transfer with the permit to the new vessel, and remain associated with that permit. Within a fishing year, when an Atlantic Tunas Longline category LAP transfer occurs (from one vessel to another), the associated IBQ shares are transferred with the permit, however IBQ allocation is not, unless the IBQ allocation is also transferred through a separate transaction within the Catch Shares Online System. A person or entity that holds an Atlantic Tunas Longline category LAP that is not associated with a vessel may not receive or lease IBQ allocation.

(j) *Evaluation.* NMFS will conduct evaluations of the IBQ Program in accordance with Magnuson-Stevens Act requirements for Limited Access Privilege Programs (Section 303(c)(1)(G)).

(k) *Property rights.* IBQ shares and resultant allocations issued pursuant to this part may be revoked, limited, modified or suspended at any time

subject to the requirements of the Magnuson-Stevens Act, ATCA, or other applicable law. Such IBQ shares and resultant allocations do not confer any right to compensation and do not create any right, title, or interest in any bluefin tuna until it is landed or discarded dead.

(l) *Enforcement and monitoring.* NMFS will enforce and monitor the IBQ Program through the use of the reporting and record keeping requirements described under § 635.5, the monitoring requirements under §§ 635.9 and 635.69, enforcement of the prohibitions in § 635.71, and its authority to close the pelagic longline fishery specified under § 635.28.

(m) *Cost recovery program.* This program of fees is intended to cover costs of management, data collection and analysis, and enforcement activities directly related to and in support of the IBQ Program. This program applies to vessels issued an Atlantic Tunas Longline category LAP that harvested bluefin tuna under the IBQ program. NMFS will undertake the below process on an annual basis.

(1) *Estimation of recoverable cost.* NMFS will calculate the estimated incremental cost of the IBQ Program (*e.g.,* oversight, customer service, database maintenance, electronic monitoring program, data monitoring, preparation of fleet communications, providing status reports to the HMS Advisory Panel, preparation of **Federal Register** documents, and enforcement related activities), including an estimate of the administrative and operational cost of implementing the cost recovery program.

(2) *Estimation of Ex-Vessel Value of Catch Share Species.* NMFS will calculate the ex-vessel value of BFT harvested under the IBQ Program using dealer data on the estimated average ex-vessel value price per pound (paid by the dealer to the vessel) and the total dressed weight of BFT sold to dealers.

(3) *Determination of Fees.* NMFS will compare its incremental cost under paragraph (m)(1) of this section to the estimate of BFT ex-vessel value under paragraph (m)(2) of this section to determine the total amount of fees that may be recovered. Fees shall not exceed 3 percent of the BFT ex-vessel value estimated under paragraph (m)(2) of this section. NMFS will determine the fee associated with each vessel that harvested BFT, based on the total dressed weight of BFT sold to dealers by a vessel, and the total amount of fees that may be recovered (fishery-wide). NMFS will not assess fees, if the amount of fees that may be recovered is similar to or less than the estimated cost of implementing the cost recovery program.

(4) *Notification of fees.* NMFS will file with the Office of the Federal Register for publication notification of its determination on fees, and notify Atlantic Tunas Longline permit holders, specifying the fees amount owed, and instructions for payment through the Catch Shares Online System or other Federal payment system. Federally permitted vessels (Atlantic Tunas Longline permit holders) that sold bluefin that do not pay the fee or are delinquent in payment would be subject to relevant enforcement penalties, including permit revocation.

(5) *Annual Report.* NMFS will prepare a brief annual report, made available to the public, which summarizes relevant information including the estimation of recoverable costs, estimation of ex-vessel value of BFT, and determination of the cost recovery fee.

(n) *IBQ Shares Cap.* An individual, partnership, corporation or other entity (collectively, ''entity'' for purposes of this paragraph (n) that holds an Atlantic Tunas Longline category LAP may not hold or acquire more than 25 percent of the total IBQ shares or associated IBQ allocations annually. The cap applies to the sum of IBQ shares or associated IBQ allocations an entity holds, regardless of whether the entity is associated with a single or multiple Atlantic Tunas Longline category permits.

■ 9. In § 635.19, revise paragraph (b) to read as follows:

§ 635.19 Authorized gears.

* * * * *

(b) *Atlantic tunas.* Primary gears are the gears specifically authorized in this section for fishing for, retaining, or possessing Atlantic BFT and BAYS.

(1) *Atlantic BFT.* A person that fishes for, retains, or possesses an Atlantic BFT may not have on board a vessel or use on board a vessel any primary gear other than those authorized for the specific permit category issued (Atlantic tunas or HMS permit categories) listed in paragraphs (b)(1)(i) through (vi) of this section.

(i) *Angling category.* Rod and reel (including downriggers) and handline (for all tunas).

(ii) *Charter/headboat category.* Rod and reel (including downriggers), bandit gear, handline, and green-stick gear.

(iii) *General category.* Rod and reel (including downriggers), handline, harpoon, bandit gear, and green-stick.

(iv) *Harpoon category.* Harpoon.

(v) *Trap category.* Pound net and fish weir.

(vi) *Longline category.* Longline and green-stick.

(2) *BAYS.* Subject to paragraphs (b)(1) of this section pertaining to BFT, a person may use the primary gears authorized for the Atlantic tunas or HMS permit categories listed in paragraphs (b)(2)(i) through (v) to fish for, retain, or possess BAYS.

(i) *Angling category.* Speargun, rod and reel (including downriggers), bandit gear, handline, and green-stick gear.

(ii) *Charter/headboat category.* Rod and reel (including downriggers), bandit gear, handline, and green-stick gear are authorized for all recreational and commercial Atlantic tuna fisheries. Speargun is authorized for recreational Atlantic BAYS tuna fisheries only.

(iii) *General category.* Rod and reel (including downriggers), handline, harpoon, bandit gear, and green-stick.

(iv) *Harpoon category.* Harpoon.

(v) *Longline category.* Longline and green-stick.

(3) A person issued an HMS Commercial Caribbean Small Boat permit may use handline, harpoon, rod and reel, bandit gear, green-stick gear, and buoy gear to fish for, retain, or possess BAYS tunas in the U.S. Caribbean, as defined at § 622.2.

* * * * *

■ 10. In § 635.21:

■ a. Revise paragraphs (c)(2)(iv) introductory text, paragraphs (c)(5)(iii)(B) and (C); and

■ b. Remove paragraph (e) and redesignate paragraphs (f) through (k) as paragraphs (e) through (j).

The revisions read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) * * *

(2) * * *

(iv) In the NED at any time, unless persons onboard the vessel comply with the following:

* * * * *

(5) * * *

(iii) * * *

(B) *Bait.* Vessels fishing outside of the NED, as defined at § 635.2, that have pelagic longline gear on board, and that have been issued or are required to be issued a LAP under this part, are limited, at all times, to possessing on board and/or using only whole finfish and/or squid bait except that if green-stick gear is also on board, artificial bait may be possessed, but may be used only with green-stick gear.

(C) *Hook size and type.* Vessels fishing outside of the NED, as defined at § 635.2, that have pelagic longline gear on board, and that have been issued or are required to be issued a LAP under this part are limited, at all times, to possessing on board and/or using only

16/0 or larger non-offset circle hooks or 18/0 or larger circle hooks with an offset not to exceed 10°. These hooks must meet the criteria listed in paragraphs (c)(5)(iii)(C)(*1*) through (*3*) of this section. A limited exception for the possession and use of J hooks when green-stick gear is on board is described in paragraph (c)(5)(iii)(C)(*4*) of this section.

* * * * *

■ 11. In § 635.22, revise paragraph (c)(1) to read as follows:

§ 635.22 Recreational retention limits.

* * * * *

(c) * * * (1) The recreational retention limit for sharks applies to any person who fishes in any manner on a vessel that has been issued or is required to have been issued a permit with a shark endorsement, except as noted in paragraph (c)(7) of this section. The retention limit can change depending on the species being caught and the size limit under which they are being caught as specified under § 635.20(e). A person on board a vessel that has been issued or is required to be issued a permit with a shark endorsement under § 635.4 is required to use non-offset, corrodible circle hooks as specified in §§ 635.21(e) and (j) in order to retain sharks per the retention limits specified in this section.

* * * * *

■ 12. In § 635.23:

■ a. Revise paragraphs (a)(4), (b)(3), (d),

■ b. Remove paragraph (e);

■ c. Redesignate paragraphs (f) and (g) as (e) and (f);

■ d. Revise newly redesignated paragraph (e) introductory text; and

■ e. Add paragraph (e)(3).

The revisions and addition read as follows:

§ 635.23 Retention limits for bluefin tuna.

* * * * *

(a) * * *

(4) To provide for maximum utilization of the quota for BFT, NMFS may increase or decrease the daily retention limit of large medium and giant BFT over a range from zero (on RFDs) to a maximum of five per vessel. Such increase or decrease will be based on the criteria provided under § 635.27(a)(7). NMFS will adjust the daily retention limit specified in paragraph (a)(2) of this section by filing an adjustment with the Office of the Federal Register for publication. Previously designated RFDs may be waived effective upon closure of the General category fishery so that persons aboard vessels permitted in the General category may conduct tag-and-release fishing for BFT under § 635.26(a).

(b) * * *

(3) *Changes to retention limits.* To provide for maximum utilization of the quota for BFT over the longest period of time, NMFS may increase or decrease the retention limit for any size class of BFT, or change a vessel trip limit to an angler trip limit and vice versa. Such increase or decrease in retention limit will be based on the criteria provided under § 635.27(a)(7). The retention limits may be adjusted separately for persons aboard a specific vessel type, such as private vessels, headboats, or charter boats. NMFS will adjust the daily retention limit specified in paragraph (b)(2) of this section by filing an adjustment with the Office of the Federal Register for publication.

* * * * *

(d) *Harpoon category.* Persons aboard a vessel permitted in the Atlantic Tunas Harpoon category may retain, possess, or land no more than 10 large medium and giant BFT, combined, per vessel per day. Of these 10 BFT per vessel per day, no more than two shall be large medium BFT, unless the retention limits is increased by NMFS through an inseason adjustment to three, or a maximum of four, large medium BFT per vessel per day, based upon the criteria under § 635.27(a)(7). NMFS will implement an adjustment via publication in the **Federal Register**. If adjusted upwards to three or four large medium BFT per vessel per day, NMFS may subsequently decrease the retention limit down to the default level of two, based on the criteria under § 635.27(a)(7). Regardless of the length of a trip, no more than a single day's retention limit of large medium or giant BFT may be possessed or retained aboard a vessel that has an Atlantic Tunas Harpoon category permit.

* * * * *

(e) *Longline category.* Persons aboard a vessel permitted in the Atlantic Tunas Longline category are subject to the BFT retention restrictions in paragraphs (e)(1),(2), and (3) of this section.

* * * * *

(3) A vessel permitted in the Atlantic Tunas Longline LAP category may retain, possess, land, and sell one large medium or giant BFT incidentally caught with green-stick gear per trip, if in compliance with all the IBQ requirements of § 635.15.

* * * * *

■ 13. In § 635.24, revise paragraphs (a)(4)(i) and (iii), to read as follows:

* * * * *

(a) * * *

(4)(i) Except as provided in § 635.22(c)(7), a person who owns or operates a vessel that has been issued a directed shark LAP may retain, possess, land, or sell pelagic sharks if the pelagic shark fishery is open per §§ 635.27 and 635.28. Shortfin mako sharks may be retained by persons aboard vessels using pelagic longline, bottom longline, or gillnet gear only if the shark is dead at the time of haulback and consistent with the provisions of §§ 635.21(c)(1), (d)(5), and (f)(6) and 635.22(c)(7).

* * * * *

(iii) Consistent with paragraph (a)(4)(ii) of this section, a person who owns or operates a vessel that has been issued an incidental shark LAP may retain, possess, land, or sell no more than 16 SCS and pelagic sharks, combined, per vessel per trip, if the respective fishery is open per §§ 635.27 and 635.28. Of those 16 SCS and pelagic sharks per vessel per trip, no more than 8 shall be blacknose sharks. Shortfin mako sharks may only be retained under the commercial retention limits by persons using pelagic longline, bottom longline, or gillnet gear, only if the shark is dead at the time of haulback and consistent with the provisions at § 635.21(c)(1), (d)(5), and (f)(6). If the vessel has also been issued a permit with a shark endorsement and retains a shortfin mako shark, recreational retention limits apply to all sharks retained and none may be sold, per § 635.22(c)(7).

* * * * *

■ 14. In § 635.27:

■ a. Revise paragraphs (a) introductory text, (a)(1)(i) and (ii), (a)(2) introductory text, (a)(2)(i) through (iii), and (a)(3);

■ b. Remove paragraph (a)(4) and redesignate paragraphs (a)(5) through (a)(10) as paragraphs (a)(4) through (a)(9); and

■ c. Revise newly redesignated paragraphs (a)(4) and (5),(a)(6)(i) and (ii), (a)(8), (a)(9)(i), (ii), and (v).

The revisions read as follows:

§ 635.27 Quotas

(a) *BFT.* Consistent with ICCAT recommendations, and with paragraph (a)(9)(iv) of this section, NMFS may subtract the most recent, complete, and available estimate of dead discards from the annual U.S. BFT quota, and make the remainder available to be retained, possessed, or landed by persons and vessels subject to U.S. jurisdiction. The remaining baseline annual U.S. BFT quota will be allocated among the General, Angling, Harpoon, Longline, Trap, and Reserve categories, as described in this section. BFT quotas are specified in whole weight. The baseline annual U.S. BFT quota is 1,247.86 mt, not including an additional annual 25-mt allocation provided in paragraph

(a)(3) of this section. This baseline BFT quota is divided among the categories according to the following percentages: General—55.8 percent (696.3 mt); Angling—23.3 percent (290.8 mt), which includes the school BFT held in reserve as described under paragraph (a)(6)(ii) of this section; Harpoon—4.6 percent (57.4 mt); Longline—13.1 percent (163.5) (*i.e.,* total not including the 25-mt allocation from paragraph (a)(3)); Trap—0.1 percent (1.2 mt); and Reserve—3 percent (37.4 mt). NMFS may make inseason and annual adjustments to quotas as specified in paragraphs (a)(8) and (9) of this section.

(1) * * *

(i) Catches from vessels for which Atlantic Tunas General category permits have been issued and certain catches from vessels for which an HMS Charter/Headboat category permit has been issued are counted against the General category quota in accordance with § 635.23(c)(3). Pursuant to paragraph (a) of this section, the amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold under the General category quota is 696.3 mt, and is apportioned as follows, unless modified as described under paragraph (a)(1)(ii) of this section:

(A) January 1 through March 31—5.3 percent;

(B) June 1 through August 31—50 percent;

(C) September 1 through September 30—26.5 percent;

(D) October 1 through November 30—13 percent; and

(E) December 1 through December 31—5.2 percent.

(ii) NMFS may adjust each period's apportionment based on overharvest or underharvest in the prior period, and may transfer subquota from one time period to another time period, earlier in the year, through inseason action or annual specifications. For example, subquota could be transferred from the December 1 through December 31 time period to the January 1 through March 31 time period; or from the October 1 through November 30 time period to the September 1 through September 30 time period. This inseason adjustment may occur prior to the start of that year. In other words, although subject to the inseason criteria under paragraph (a)(7) of this section, the adjustment could occur prior to the start of the fishing year. For example, an inseason action transferring the 2016 December 1 through December 31 time period subquota to the 2016 January 1 through March 31 time period subquota could be filed in 2015.

* * * * *

(2) *Angling category quota.* In accordance with the framework procedures as described under § 635.34, prior to each fishing year, or as early as feasible, NMFS will establish the Angling category daily retention limits. In accordance with paragraph (a) of this section, the total amount of BFT that may be caught, retained, possessed, and landed by anglers aboard vessels for which an HMS Angling category permit or an HMS Charter/Headboat category permit has been issued is 290.8 mt. No more than 3.1 percent of the annual Angling category quota may be large medium or giant BFT. In addition, no more than 10 percent of the baseline annual U.S. BFT quota, inclusive of the allocation specified in paragraph (a)(3) of this section, may be school BFT . The Angling category quota includes the amount of school BFT held in reserve under paragraph (a)(6)(ii) of this section. The size class subquotas for BFT are further subdivided as follows:

(i) After adjustment for the school BFT quota held in reserve (under paragraph (a)(6)(ii) of this section), 52.8 percent of the school BFT Angling category quota may be caught, retained, possessed, or landed south of 39°18′ N lat. The remaining school BFT Angling category quota may be caught, retained, possessed or landed north of 39°18′ N lat.

(ii) After adjustment (Angling category quota minus school and large medium/giant subquotas), resulting in a large school/small medium subquota of 154.5 mt, an amount equal to 52.8 percent may be caught, retained, possessed, or landed south of 39°18′ N lat. The remaining large school/small medium BFT Angling category quota may be caught, retained, possessed, or landed north of 39°18′ N lat.

(iii) One fourth of the large medium and giant BFT Angling category quota may be caught retained, possessed, or landed, in each of the four following geographic areas: North of 42° N lat.; south of 42° N lat. and north of 39°18′ N lat.; south of 39°18′ N lat., and outside of the Gulf of Mexico; and in the Gulf of Mexico region. For the purposes of this section, the Gulf of Mexico region includes all waters of the U.S. EEZ west and north of the boundary stipulated at 50 CFR 600.105(c).

(3) *Longline category quota.* Pursuant to paragraph (a) of this section, the total amount of large medium and giant BFT that may be caught, discarded dead, or retained, possessed, or landed by vessels that possess Atlantic Tunas Longline category permits is 163.5 mt. In addition, 25 mt shall be allocated for incidental catch by pelagic longline vessels fishing in the NED, and subject to the restrictions under § 635.15(b)(6).

(4) *Harpoon category quota.* The total amount of large medium and giant BFT that may be caught, retained, possessed, landed, or sold by vessels that possess Atlantic Tunas Harpoon category permits is 57.4 mt. The Harpoon category fishery commences on June 1 of each year, and closes on November 15 of each year.

(5) *Trap category quota.* The total amount of large medium and giant BFT, that may be caught, retained, possessed, or landed by vessels that possess Atlantic Tunas Trap category permits is 1.2 mt.

(6) *Reserve category quota.* (i) The total amount of BFT that is held in reserve for inseason or annual adjustments; adjustments to, or appeals of, IBQ allocations (see § 635.15(e)(1)(i)); and research using quota or subquotas is 37.4 mt, which may be augmented by allowable underharvest from the previous year.

(ii) The total amount of school BFT that is held in reserve for inseason or annual adjustments and fishery-independent research is 18.5 percent of the total school BFT Angling category quota as described under paragraph (a)(2) of this section. This amount is in addition to the amounts specified in paragraph (a)(6)(i) of this section. Consistent with paragraph (a)(7) of this section, NMFS may allocate any portion of the school BFT Angling category quota held in reserve for inseason or annual adjustments to the Angling category.

* * * * *

(8) *Inseason adjustments.* To be effective for all, or part of a fishing year, NMFS may transfer quotas specified under this section, among fishing categories or, as appropriate, subcategories, based on the criteria in paragraph (a)(7) of this section.

(9) * * *

(i) Adjustments to category quotas specified under paragraphs (a)(1) through (6) of this section may be made in accordance with the restrictions of this paragraph and ICCAT recommendations. Based on landing, catch statistics, other available information, and in consideration of the criteria in paragraph (a)(7) of this section, if NMFS determines that a BFT quota for any category or, as appropriate, subcategory has been exceeded (overharvest), NMFS may subtract all or a portion of the overharvest from that quota category or subcategory for the following fishing year. If NMFS determines that a BFT quota for any category or, as

appropriate, subcategory has not been reached (underharvest), NMFS may add all or a portion of the underharvest to, that quota category or subcategory, and/or the Reserve category for the following fishing year. The underharvest that is carried forward may not exceed 100 percent of each category's baseline allocation specified in paragraph (a) of this section, and the total of the adjusted fishing category quotas and the Reserve category quota are consistent with ICCAT recommendations. Although quota may be carried over for the Longline category as a whole, IBQ shares and IBQ allocations may not be carried over from one year to the next, as specified under § 635.15(f).

(ii) NMFS may allocate any quota remaining in the Reserve category at the end of a fishing year to any fishing category, provided such allocation is consistent with the determination criteria specified in paragraph (a)(7) of this section.

* * * * *

(v) NMFS will file any annual adjustment with the Office of the Federal Register for publication and specify the basis for any quota reduction or increases made pursuant to this paragraph (a)(9).

* * * * *

■ 15. In § 635.28, revise paragraphs (a)(1) and (2) to read as follows:

§ 635.28 Fishery closures.

(a) * * * (1) When a BFT quota specified in § 635.27(a), or a region's IBQ allocations as specified under § 635.15(c)(3), have been reached or are projected to be reached, NMFS will file a closure action with the Office of the Federal Register for publication. On and after the effective date and time of such action, for the remainder of the fishing year or for a specified period as indicated in the notice, fishing for, retaining, possessing, or landing BFT under that quota is prohibited until the opening of the subsequent quota period or until such date as specified in the notice.

(2) If NMFS determines that variations in seasonal distribution, abundance, or migration patterns of BFT, or the catch rate in one area, precludes participants in another area from a reasonable opportunity to harvest any allocated domestic category quota, as stated in § 635.27(a), NMFS may close all or part of the fishery under that category. NMFS may reopen the fishery at a later date if NMFS determines that reasonable fishing opportunities are available, *e.g.,* BFT have migrated into the area or weather is conducive for fishing. In determining the need for any such interim closure or area closure, NMFS will also take into consideration the criteria specified in § 635.27(a)(7).

* * * * *

§ 635.29 [Amended]

■ 16. In § 635.29, remove paragraph (c).

■ 17. In § 635.31, revise paragraph (a)(1) to read as follows:

§ 635.31 Restrictions on sale and purchase.

(a) * * *

(1) A person that owns or operates a vessel from which an Atlantic tuna is landed or offloaded may sell such Atlantic tuna only if that vessel has a valid HMS Charter/Headboat category permit with a commercial sale endorsement; a valid General, Harpoon, Longline, or Trap category permit for Atlantic tunas; or a valid HMS Commercial Caribbean Small Boat permit issued under this part, and the appropriate category has not been closed, as specified at § 635.28(a). However, no person may sell a BFT smaller than the large medium size class. Also, no large medium or giant BFT taken by a person aboard a vessel with an Atlantic HMS Charter/Headboat category permit fishing in the Gulf of Mexico at any time, or fishing outside the Gulf of Mexico when the fishery under the General category has been closed, may be sold (see § 635.23(c)). A person may sell Atlantic BFT only to a dealer that has a valid permit for purchasing Atlantic BFT issued under this part. A person may not sell or purchase Atlantic tunas harvested with speargun fishing gear.

* * * * *

■ 18. In § 635.69:

■ a. Revise paragraphs (a) introductory text, (a)(1), and (a)(4);

■ b. Add paragraph (a)(5); and

■ c. Revise paragraphs (e)(4) introductory text, and (e)(4)(ii).

The addition and revisions read as follows:

§ 635.69 Vessel monitoring systems.

(a) *Applicability.* To facilitate enforcement of time/area and fishery closures, enhance reporting, and support the IBQ Program (§ 635.15), an owner or operator of a commercial vessel that has been issued or is required to be issued an Atlantic Tunas Longline category LAP or a vessel that is permitted, or required to be permitted, to fish for Atlantic HMS under § 635.4 and that fishes with pelagic or bottom longline or gillnet gear is required to install a NMFS-approved enhanced mobile transmitting unit (E–MTU) vessel monitoring system (VMS) on board the vessel and operate the VMS unit under the circumstances listed in paragraphs (a)(1) through (a)(5) of this section. For purposes of this section, a NMFS-approved E–MTU VMS is one that has been approved by NMFS as satisfying its type approval listing for E–MTU VMS units. Those requirements are published in the **Federal Register** and may be updated periodically.

(1) Whenever the vessel has pelagic longline gear on board;

* * * * *

(4) A vessel is considered to have pelagic or bottom longline gear on board, for the purposes of this section, when the gear components as specified at § 635.2 are on board. A vessel is considered to have gillnet gear on board, for the purposes of this section, when gillnet, as defined in § 600.10 of this chapter, is on board a vessel that has been issued a shark LAP.

(5) Whenever a vessel issued an Atlantic Tunas Longline permit has green-stick gear on board.

* * * * *

(e) * * *

(4) *BFT and fishing effort reporting requirements for vessels fishing with pelagic longline gear or vessels issued an Atlantic Tunas Longline category LAP fishing with green-stick gear.*

* * * * *

(ii) *Green-stick gear.* The owner or operator of a vessel with an Atlantic Tunas Longline permit, that is fishing with green-stick gear must report to NMFS using the attached VMS terminal, or using an alternative method specified by NMFS as follows: For each green-stick set that interacts with BFT, as instructed by NMFS, the date and area of the set, and the length of all BFT retained (actual), and the length of all BFT discarded dead or alive (approximate), must be reported within 12 hours of the completion of the retrieval of each set.

* * * * *

■ 19. In § 635.71:

■ a. Revise paragraphs (a)(14), (a)(37), and (b)(3);

■ b. Remove and reserve paragraphs (b)(8) through (10), (17) through (18), and (20) through (22);

■ c. Revise paragraphs (b)(30), (31), (33), (34), (35), (41), (46), (49);

■ d. Add paragraph (b)(60) and (61); and

■ e. Revise paragraphs (c)(7), (d)(13), (d)(22), (d)(23), (d)(28), (e)(11), (e)(17).

The revisions and additions read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(14) Fail to install, activate, repair, or replace a NMFS-approved E–MTU

vessel monitoring system prior to leaving port with pelagic longline gear, bottom longline gear, or gillnet gear on board the vessel, or with green-stick gear on board a vessel issued an Atlantic Tunas Longline category permit, as specified in § 635.69.

* * * * *

(37) Fail to report to NMFS, at the number designated by NMFS, the incidental capture of listed whales with shark gillnet gear as required by § 635.21(f)(1).

* * * * *

(b) * * *

(3) Fish for, catch, retain, or possess a BFT less than the large medium size class by a person aboard a vessel other than one that has on board a valid HMS Angling or Charter/Headboat category permit as authorized under § 635.23(b) and (c).

* * * * *

(30) Fish for any HMS, other than Atlantic BAYS tunas, with speargun fishing gear, as specified at § 635.21(h).

(31) Harvest or fish for BAYS tunas using speargun gear with powerheads, or any other explosive devices, as specified in § 635.21(h).

* * * * *

(33) Fire or discharge speargun gear without being physically in the water, as specified at § 635.21(h).

(34) Use speargun gear to harvest a BAYS tuna restricted by fishing lines or other means, as specified at § 635.21(h).

(35) Use speargun gear to fish for BAYS tunas from a vessel that does not possess either a valid HMS Angling or HMS Charter/Headboat category permit, as specified at § 635.21(h).

* * * * *

(41) Fail to report BFT catch by pelagic longline, through VMS as specified at § 635.69(e)(4).

* * * * *

(46) Deploy or fish with any fishing gear from a vessel with a pelagic longline on board that does not have an approved and fully operational working EM system as specified in § 635.9; tamper with, or fail to install, operate or maintain one or more components of the EM system; obstruct the view of the camera(s); or fail to handle bluefin tuna in a manner that allows the camera to record the fish; as specified in § 635.9; or fail to comply with the standardized reference grid, hard drive, vessel monitoring plan and other requirements under § 635.9.

* * * * *

(49) Lease BFT quota allocation to or from the owner of a vessel not issued a valid Atlantic Tunas Longline permit as specified under § 635.15(g)(1).

* * * * *

(60) Fail to pay cost recovery fees as instructed by NMFS, as specified at § 635.15(m)(4).

(61) Hold or acquire more than 25 percent of the total IBQ shares or associated allocations annually as specified under § 635.15(m).

(c) * * *

(7) Deploy a J-hook or an offset circle hook in combination with natural bait or a natural bait/artificial lure combination when participating in a tournament for, or including, Atlantic billfish, as specified in § 635.21(e).

* * * * *

(d) * * *

(13) Fish for Atlantic sharks with a gillnet or possess Atlantic sharks on board a vessel with a gillnet on board, except as specified in § 635.21(f).

* * * * *

(22) Except when fishing only with flies or artificial lures, fish for, retain, possess, or land sharks without deploying non-offset, corrodible circle hooks when fishing at a registered recreational HMS fishing tournament that has awards or prizes for sharks, as specified in § 635.21(e) and (j).

(23) Except when fishing only with flies or artificial lures, fish for, retain, possess, or land sharks without deploying non-offset, corrodible circle hooks when issued an Atlantic HMS Angling permit or HMS Charter/Headboat category permit with a shark endorsement, as specified in § 635.21(e) and (j).

* * * * *

(28) Retain, land, or possess a shortfin mako shark that was caught with pelagic longline, bottom longline, or gillnet gear and was alive at haulback as specified at § 635.21(c)(1), (d)(5), and (f)(6).

* * * * *

(e) * * *

(11) Possess or deploy more than 35 individual floatation devices, to deploy more than 35 individual buoy gears per vessel, or to deploy buoy gear without affixed monitoring equipment, as specified at § 635.21(g).

* * * * *

(17) Fail to construct, deploy, or retrieve buoy gear as specified at § 635.21(g).

[FR Doc. 2021–10210 Filed 5–20–21; 8:45 am]

BILLING CODE 3510–22–P

FEDERAL REGISTER

Vol. 86 Friday,

No. 97 May 21, 2021

Part III

Department of Justice

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Parts 447, 478, and 479

Definition of ''Frame or Receiver'' and Identification of Firearms; Proposed Rule

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Parts 447, 478, and 479

[Docket No. ATF 2021R–05; AG Order No. 5051–2021]

RIN 1140–AA54

Definition of "Frame or Receiver" and Identification of Firearms

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Notice of proposed rulemaking; request for comment.

SUMMARY: The Department of Justice (''Department'') proposes amending Bureau of Alcohol, Tobacco, Firearms, and Explosives (''ATF'') regulations to provide new regulatory definitions of ''firearm frame or receiver'' and ''frame or receiver'' because the current regulations fail to capture the full meaning of those terms. The Department also proposes amending ATF's definitions of ''firearm'' and ''gunsmith'' to clarify the meaning of those terms, and to provide definitions of terms such as ''complete weapon,'' ''complete muffler or silencer device,'' ''privately made firearm,'' and ''readily'' for purposes of clarity given advancements in firearms technology. Further, the Department proposes amendments to ATF's regulations on marking and recordkeeping that are necessary to implement these new or amended definitions.

DATES: Written comments must be postmarked and electronic comments must be submitted on or before August 19, 2021. Commenters should be aware that the electronic Federal Docket Management System will not accept comments after Midnight Eastern Time on the last day of the comment period.

ADDRESSES: You may submit comments, identified by docket number ATF 2021R–05, by any of the following methods—

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Andrew Lange, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 99 New York Ave. NE, Mail Stop 6N–518, Washington, DC 20226; *ATTN: ATF 2021R–05.*
- *Fax:* (202) 648–9741.

Instructions: All submissions received must include the agency name and docket number (ATF 2021R–05) for this notice of proposed rulemaking (''NPRM'' or ''proposed rule''). All properly completed comments received will be posted without change to the Federal eRulemaking portal, *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Andrew Lange, Office of Regulatory Affairs, Enforcement Programs and Services, Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Department of Justice, 99 New York Ave. NE, Mail Stop 6N–518, Washington, DC 20226; telephone: (202) 648–7070 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Attorney General is responsible for enforcing the Gun Control Act of 1968 (''GCA''), as amended, and the National Firearms Act of 1934 (''NFA''), as amended.[1] This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA and NFA. *See* 18 U.S.C. 926(a); 26 U.S.C. 7801(a)(2)(A), 7805(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA and NFA to the Director of ATF, subject to the direction of the Attorney General and the Deputy Attorney General. *See* 28 U.S.C. 599A(b)(1); 28 CFR 0.130(a)(1)–(2). Accordingly, the Department and ATF have promulgated regulations implementing the GCA and NFA. *See* 27 CFR parts 478, 479.

Prior to passage of the GCA, the Federal Firearms Act of 1938 (''FFA'') regulated all firearm parts. The FFA and implementing regulations defined the term ''firearm'' to mean ''any weapon, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosive and a firearm muffler or firearm silencer, *or any part or parts of such weapon.*'' Public Law 75–785, 52 Stat. 1250 (1938); 26 CFR 177.10 (repealed) (emphasis added). The Omnibus Crime Control and Safe Streets Act of 1968 repealed the FFA, replacing it with the GCA. Public Law 90–351, section 907, 82 Stat. 197 (1968). During debate on the GCA and related bills introduced to address firearms trafficking, Congress recognized that regulation of all firearm parts was impractical. Senator Dodd explained that ''[t]he present definition of this term includes 'any part or parts' of a firearm. It has been impractical to treat each small part of a firearm as if it were a weapon. The revised definition substitutes the words 'frame or receiver' for the words 'any part or parts.' '' *See* 111 Cong. Rec. 5527 (March 22, 1965).[2]

A ''firearm'' is defined by 18 U.S.C. 921(a)(3) to include not only a weapon that will, is designed to, or may readily be converted to expel a projectile, but also the ''frame or receiver'' of any such weapon. Because ''frames'' or ''receivers'' are included in the definition of ''firearm,'' any person who engages in the business of manufacturing, importing, or dealing in frames or receivers must obtain a license from ATF. 18 U.S.C. 922(a)(1)(A); *id.* at 923(a). Each licensed manufacturer or importer must ''identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Attorney General shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.''[3] 18 U.S.C. 923(i); *see* 27 CFR 478.92, 479.102. Licensed manufacturers and importers must also maintain permanent records of production or importation, as well as their receipt, sale, or other disposition of firearms, including frames or receivers. 18 U.S.C. 923(g)(1)(A); 27 CFR 478.122, 478.123.

A ''frame or receiver'' is the primary structural component of a firearm to which fire control components are attached.[4] While the GCA does not

[1] NFA provisions still refer to the ''Secretary of the Treasury.'' 26 U.S.C. ch. 53. However, the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (2002), transferred the functions of ATF from the Department of the Treasury to the Department of Justice, under the general authority of the Attorney General. 26 U.S.C. 7801(a)(2); 28 U.S.C. 599A(c)(1). Thus, for ease of reference, this notice of proposed rulemaking refers to the Attorney General throughout.

[2] *See also* H.R. Rep. 90–1577, at 4416 (June 21, 1968) (''Under former definitions of 'firearm,' any part or parts of such a weapon were included. It was found impractical to have controls over each small part of a firearm. Thus, this definition includes only the major parts of the firearm, that is, the frame or receiver.''); S. Rep. No. 90–1097, at 2200 (April 29, 1968) (same).

[3] Additionally, a firearm frame or receiver that is not a component part of a complete weapon at the time it is sold, shipped, or disposed of must be identified in the manner prescribed with a serial number and all of the other required markings. 27 CFR 478.92(a)(2); *id.* at 479.102(e); ATF Ruling 2012–1.

[4] *See* Webster's Third New International Dictionary, pp. 902, 1894 (1971) (a ''frame'' is ''the basic unit of a handgun which serves as a mounting for the barrel and operating parts of the arm''; ''receiver'' means ''the metal frame in which the action of a firearm is fitted and to which the breech end of the barrel is attached''); *Olson's Encyclopedia of Small Arms,* p.72 (1985) (the term

define the term ''frame or receiver,'' to implement the statute, the terms ''firearm frame or receiver'' and ''frame or receiver'' were defined in regulations several decades ago as that part of a firearm that provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel. 27 CFR 478.11 (implementing GCA, Title I); 27 CFR 479.11 [5] (implementing GCA, Title II). The intent in promulgating these definitions was to provide guidance as to which portion of a firearm was the frame or receiver for purposes of licensing, serialization, and recordkeeping, thereby ensuring that a necessary component of the weapon could be traced if later involved in a crime.

At the time these definitions were published around 50 years ago, single-framed firearms such as revolvers and break-open shotguns were far more prevalent for civilian use than split/multi-piece receiver weapons, such as semiautomatic rifles and pistols with detachable magazines. Single-framed firearms incorporate the hammer, bolt or breechblock, and firing mechanism within the same housing. Years after these definitions were published, split/multi-piece receiver firearms, such as the AR–15 semiautomatic rifle (upper receiver and lower receiver), Glock semiautomatic pistols (upper slide assembly and lower grip module), and Sig Sauer P320 (M17/18 as adopted by the U.S. military) (upper slide assembly, chassis, and lower grip module), became popular.[6] Additionally, more firearm manufacturers began incorporating a striker-fired mechanism rather than a ''hammer'' in the firing design. With the rise in popularity of striker-fired Glock semiautomatic pistols in the mid-1980s, other manufacturers began incorporating a striker-fired mechanism, rather than a hammer, in semiautomatic handguns.[7]

A. ATF's Application of the Definitions To Split Frames or Receivers

Although ATF's regulatory definitions of ''frame or receiver'' do not expressly capture these types of firearms (*i.e.,* split/multi-piece receivers) that now constitute the majority of firearms in the United States,[8] ATF's position has long been that the weapon ''should be examined with a view toward determining if [either] the upper or lower half of the receiver more nearly fits the legal definition of 'receiver,' '' and more specifically, for machineguns, whether the upper or lower portion has the ability to accept machinegun parts.[9] [10]

Since it began issuing firearm classifications under the GCA and NFA in private letter rulings and for criminal investigations, ATF has considered a variety of factors when examining firearms, including: (a) Which component the manufacturer intended to be the frame or receiver; (b) which component the firearms industry commonly considers to be the frame or receiver with respect to the same or similar firearms; (c) how the component fits within the overall design of the firearm when assembled; (d) the design and function of the fire control components to be housed, such as the hammer, bolt or breechblock, and firing mechanism; (e) whether the component could permanently, conspicuously, and legibly be identified with a serial number and other markings in a manner not susceptible of being readily obliterated, altered, or removed, in accordance with regulations; (f) whether classifying the particular component is consistent with the legislative intent of the GCA and implementing regulations; and (g) whether classifying the component as the frame or receiver is consistent with ATF's prior classifications.

Even though neither the upper nor the lower portion of a split/multi-piece receiver firearm alone falls within the precise wording of the regulatory definition, ATF has for many years interpreted the regulatory definition using these factors as a guide in determining which portion of a weapon model is a firearm frame or receiver. Indeed, the current definitions were never intended to be, or understood to be, exhaustive; at the time the current definitions were adopted there were numerous models of firearms that did not contain a part that fully met the regulatory definition of ''frame or receiver,'' such as the Colt 1911, FN–FAL, and the AR–15/M–16, all of which were originally manufactured almost exclusively for military use, and ATF has long applied these factors in determining which component of those weapons qualifies as the frame or receiver.[11]

Existing law recognizes that the definition of ''frame or receiver'' need not be limited to a strict application of the regulation. The prefatory paragraph to the definitional section of 27 CFR 478.11 (Meaning of Terms) states: ''[w]hen used in this part and in forms

''frame'' means ''the basic structure and principal component of a firearm''); *Steindler's New Firearms Dictionary* p. 209 (1985) (''receiver'' means ''that part of a rifle or shotgun (excepting hinged frame guns) that houses the bolt, firing pin, mainspring, trigger group, and magazine or ammunition feed system. The barrel is threaded into the somewhat enlarged forward part of the receiver, called the receiver ring. At the rear of the receiver, the butt or stock is fastened. In semiautomatic pistols, the frame or housing is sometimes referred to as the receiver.'').

[5] The definition of ''frame or receiver'' in § 479.11 differs slightly from the definition in § 478.11 in that it omits an Oxford comma between ''bolt or breechblock'' and ''firing mechanism.''

[6] *See Once Banned, Now Loved and Loathed: How the AR–15 Became 'America's Rifle',* New York Times (Mar. 3, 2018), *https://www.nytimes.com/2018/03/03/us/politics/ar-15-americas-rifle.html* (Once the patent expired in 1977, ''it opened the way for dozens of weapons manufacturers to produce their own models, using the same technology. The term AR–15 has become a catchall that includes a variety of weapons that look and operate similarly''); Paul M. Barrett, *Glock: The Rise of America's Gun* 21–23 (2013) (''Today the Glock is on the hip of more American police officers than any other handgun.''); *A Star Is Born—U.S. Army Chooses Sig Sauer P320 For Its New Service Pistol, Forbes.com* (Jan. 20, 2017) *https://www.forbes.com/sites/frankminiter/2017/01/20/a-star-is-born-u-s-army-chooses-sig-sauer-p320-for-its-new-service-pistol/.* While millions of AR–15s/M–16s existed at the time ATF promulgated the definitions, they were manufactured almost exclusively for military use. *See* Internal Colt Memorandum from B. Northrop, Feb. 2, 1973, p.2 (noting that there were 2,752,812 military versus 25,774 civilian (''Sporters'') serialization of AR–15/M–16 rifles then manufactured).

[7] *A Matter of Purpose: Striker Fire vs. Hammer Fire,* Small Arms Defense Journal (June 8, 2018), *http://www.sadefensejournal.com/wp/a-matter-of-purpose-striker-fire-vs-hammer-fire/* (''Even though Glock wasn't the first to use striker fire on pistols, Glock can be credited for making the striker fire popular in the 1980s when they started using striker fire in their entire line of pistols. As Glock became popular, other manufacturers started using striker fire as well, proliferating it across the firearms manufacturing community on a grand scale.'').

[8] *United States* v. *Rowold,* 429 F. Supp. 3d 469 (N.D. Ohio 2019), Testimony of ATF Firearms Enforcement Officer Daniel Hoffman at Doc. No. 60, Hrg. Tr., Page ID 557 (approximately 10% of currently manufactured firearms in the United States include the three components in the frame or receiver definition); and Defense Expert Daniel O'Kelly at Doc. No. 60, Hrg. Tr. Page ID 482 (''90 some percent of [semiautomatic pistols] do not have a part which has more than one of these four elements in it and, therefore, don't qualify, according to the definition in the CFR.'').

[9] ATF Internal Revenue Service Memoranda #21208 (Mar. 1, 1971) (lower portion of the M–16 is the frame or receiver because it comes closest to meeting the definition of frame or receiver in 26 CFR 178.11 (now 27 CFR 478.11), and is the receiver of a machinegun as defined in the NFA); ATF Memorandum #22334 (Jan. 24, 1977) (upper half of the FN FAL rifle is the frame or receiver because it was designed to accept the components that allow fully automatic fire). The ability to accept machinegun parts is considered because both the GCA and the NFA regulate machinegun receivers as ''machineguns.'' *See* 18 U.S.C. 921(a)(23); 26 U.S.C. 5845(b) (''The term [''machinegun''] shall also include the frame or receiver of any such weapon [which shoots is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger].'').

[10] Regulations implementing the relevant statutes spell the term ''machine gun'' rather than ''machinegun.'' *E.g.,* 27 CFR 478.11, 479.11. For convenience, this notice of proposed rulemaking uses ''machinegun'' except when quoting a source to the contrary.

[11] *See* footnote 9 *supra.*

prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section.'' [12] The intent of Congress, as indicated by the plain language and the statutory scheme of the GCA, is to regulate—as a firearm—the frame or receiver of a firearm. *See* 111 Cong. Rec. 5527 (March 22, 1965). As stated above, Congress replaced the term ''part or parts'' in the FFA definition of ''firearm'' with ''frame or receiver,'' the major parts of a weapon regulated under the GCA. This includes marking these parts with serial numbers for tracing purposes, recording these parts as ''firearms'' in required records, and running a National Instant Criminal Background Check System (''NICS'') background check when individuals purchase or acquire them.

In the past few years, however, some courts have treated the regulatory definition as exhaustive when applied to the lower portion of the AR–15-type rifle, which is the semiautomatic version of the M–16-type machinegun originally designed for the U.S. military. While ATF for decades has classified the lower receiver of the AR–15 rifle as a ''frame or receiver,'' courts recently have read the regulatory definition to mean that the lower portion of the AR–15 is not a ''frame or receiver'' because it only provides housing for the hammer and firing mechanism, but not the bolt or breechblock. *See United States* v. *Rowold,* 429 F. Supp. 3d 469, 475–77 (N.D. Ohio 2019) (''The language of the regulatory definition in § 478.11 lends itself to only one interpretation: namely, that under the GCA, the receiver of a firearm must be a single unit that holds three, not two components: 1) the hammer, 2) the bolt or breechblock, and 3) the firing mechanism.''); *United States* v. *Jimenez,* 191 F. Supp. 3d 1038, 1041 (N.D. Cal. 2016) (''[A] receiver must have the housing for three elements: hammer, bolt or breechblock, and firing mechanism.''); *United States* v. *Joseph Roh,* SACR 14–167–JV, Minute Order p. 6 (C.D. Cal. July 27, 2020) (granting defendant's post-trial motion for acquittal for manufacturing AR–15 lower receivers without a license because ''[n]o reasonable person would understand that a part constitutes a receiver where it lacks the components specified in regulation'').

These courts' interpretation of ATF's regulations, if broadly followed, could mean that as many as 90 percent of all firearms now in the United States would not have any frame or receiver subject to regulation.[13] Those firearms would include numerous widely available models, such as Glock-type and Sig Sauer P320 [14] pistols, that do not utilize a hammer—a named component—in the firing sequence. Such a narrow interpretation of what constitutes a frame or receiver would allow persons to avoid: (a) Obtaining a license to engage in the business of manufacturing or importing upper or lower frames or receivers; (b) identifying upper or lower frames or receivers with a serial number and other traceable markings; (c) maintaining records of upper or lower frames or receivers produced or imported through which they can be traced; and (d) running NICS checks on potential transferees to determine if they are legally prohibited from receiving or possessing firearms when they acquire upper or lower frames or receivers. In turn, this would allow prohibited persons to acquire upper and lower receivers that can quickly be assembled into semiautomatic weapons more easily and without a background check.[15] If no portion of split/multi-piece frames or receivers were subject to any existing regulations, such as marking, recordkeeping, or background checks, law enforcement's ability to trace semiautomatic firearms later used in crime would be severely impeded. This result would thereby undermine the intent of Congress in requiring the frame or receiver of every firearm to be identified, *see* 18 U.S.C. 923(i), and regulated as a firearm, *see* 18 U.S.C. 921(a)(3)(B).[16]

B. Privately Made Firearms or ''Ghost Guns''

Technological advances have also made it easier for unlicensed persons to make firearms at home from standalone parts or weapon parts kits, or by using 3D printers or personally owned or leased equipment, without any records or a background check. Commonly referred to as ''ghost guns,'' these privately made firearms (''PMFs''), when made for personal use, are not required by the GCA to have a serial number placed on the frame or receiver, making it difficult for law enforcement to determine where, by whom, or when they were manufactured, and to whom they were sold or otherwise disposed.

In recent years, the number of PMFs recovered from crime scenes throughout the country has increased.[17] From January 1, 2016, through December 31, 2020, there were approximately 23,906 suspected PMFs reported to ATF as having been recovered by law enforcement from potential crime scenes, including 325 homicides or attempted homicides, and that were attempted to be traced by ATF, broken down by year as follows: [18]

[12] ATF's predecessor agency, the Alcohol, Tobacco and Firearms Division within the Internal Revenue Service, derived this limitation on the application of definitions from the Internal Revenue Code (''IRC''), 26 U.S.C. 7701(a). Courts interpreting definitions in the IRC have not strictly applied those definitions where they would be manifestly incompatible with the intent of the applicable statute. *See, e.g., Pierre* v. *Commissioner,* 133 T.C. 24, 35 (2009) (even though a Limited Liability Company was not among any of the named entities defined in section 7701, it would be manifestly incompatible with the Federal estate and gift tax statutes to exclude them); *Bunnel* v. *Commissioner,* 50 T.C. 837, 841 (1968) (literal application of the definition of ''taxpayer'' in section 7701(a)(14) was avoided where it was manifestly incompatible with the intent of other sections of the IRC); *Davis* v. *Commissioner,* 30 T.C. 462, 466–67 (1958) (strict geographical application of the term ''United States'' in 26 U.S.C. 3797(a)(9) (now 7701(a)(9)) to the territory of American Samoa, rather than in a political sense, would be manifestly incompatible with the intent and purpose of the income tax exemption for persons earning income outside the United States).

[13] *See* footnote 8, *supra.*

[14] The United States military services have adopted variants of the Sig Sauer P320 as their official side arm, and are in the process of purchasing up to 500,000 of these striker-fired pistols. *Army Picks Sig Sauer's P320 Handgun to Replace M9 Service Pistol, Military.com* (Jan. 19, 2017), *https://www.military.com/daily-news/2017/01/19/army-picks-sig-sauer-replace-m9-service-pistol.html; Every U.S. military branch is about to get its hands on the Army's new sidearm of choice, Taskandpurpose.com* (Nov. 18, 2020), *https://taskandpurpose.com/military-tech/modular-handgun-system-fielding/* (Sig Sauer delivered its 200,000th P320 variant pistol to the military despite the obstacles posed by the novel coronavirus).

[15] *See Design of AR–15 could derail charges tied to popular* rifle, *APnews.com* (Jan. 13, 2020), *https://apnews.com/article/396bbedbf4963a28bda99e7793ee6366.*

[16] *See* footnote 2, *supra.*

[17] *See Baltimore police report a 400% increase in untraceable 'ghost guns',* The Baltimore Sun (Feb. 18, 2021), *http://www.baltimoresun.com/news/crime/bs-pr-md-ci-cr-ghost-gun-ban-20210218-ae2dortu6ngn5llmfmq6yxtx6m-story.html; Syracuse joins lawsuit against feds amid rise in ghost guns,* WRVO Syracuse (Aug. 27, 2020), *https://www.wrvo.org/post/syracuse-joins-lawsuit-against-feds-amid-rise-ghost-guns#stream/0; Ghost Guns: The build-it-yourself firearms that skirt most federal gun laws and are virtually untraceable,* CBS News (May 10, 2020), *https://www.cbsnews.com/news/ghost-guns-untraceable-weapons-criminal-cases-60-minutes-2020-05-10/; Untraceable ghost guns proliferate as Philadelphia grapples with violence,* The Morning Call (Mar. 18, 2020), *https://www.mcall.com/news/pennsylvania/mc-nws-pa-philadelphia-ghost-guns-20200318-jzyt4thyvvgntproexbleyleay-story.html; Ghost Guns Are Everywhere in California,* The Trace (May 17, 2019), *https://www.thetrace.org/2019/05/ghost-gun-california-crime/; The Rise of Untraceable Ghost Guns,* Wall Street Journal (Jan. 4, 2018), *https://www.wsj.com/articles/the-rise-of-untraceable-ghost-guns-1515061800; How D.C. Is Addressing An Ongoing Spike In Gun Violence,* NPR Washington (Mar. 2, 2020), *https://www.npr.org/local/305/2020/03/02/811194978/how-d-c-is-addressing-an-ongoing-spike-in-gun-violence; Untraceable 'Ghost Guns' sold across Central Florida,* WKMG–TV Orlando (Nov. 15, 2016), *https://www.clickorlando.com/getting-results/2016/11/15/untraceable-ghost-guns-sold-across-central-florida/.*

[18] Source: ATF Office of Strategic Intelligence and Information. These numbers (as of March 4, 2021)

2016: 1,750
2017: 2,507
2018: 3,776
2019: 7,161
2020: 8,712

It is, therefore, not unexpected that numerous Federal criminal cases have been brought by the Department to counter illegal trafficking in unserialized home-completed and assembled weapons, and possession of such weapons by prohibited persons.[19]

The problem of untraceable firearms being acquired and used by violent criminals and terrorists is international in scope. On May 28, 2019, citing intelligence reports by the Department of Homeland Security (''DHS''), the Federal Bureau of Investigation (''FBI''), and the National Counterterrorism Center (''NCTC''), the House Committee on Homeland Security issued a report concluding that ''[g]host guns not only pose a challenge on the front end, enabling prohibited buyers to purchase deadly weapons with just a few clicks online, but also on the back end, hamstringing law enforcement's ability to investigate crimes committed with untraceable weapons'' and that the ''wide availability of ghost guns and the emergence of functional 3D-printed guns are a homeland security threat. Terrorists and other bad actors may seek to exploit the availability of these weapons for dangerous ends.'' H.R. Rep. No. 116–88, at 2 (May 28, 2019).[20] Criminal investigations and studies highlight this concern.[21]

The GCA ''insists that the dealer keep certain records, to enable federal authorities both to enforce the law's verification measures and to trace firearms used in crimes.'' *Abramski* v. *United States,* 573 U.S. 169, 173 (2014) (citing H. Rep. No. 1577, 90th Cong., 2d Sess., 14 (1968)). ''That information helps to fight serious crime.'' *Id.* at 182; *see also* Identification Markings Placed on Firearms, 66 FR 40597 (Aug. 3, 2001) (''Firearms tracing is an integral part of

are likely far lower than the actual number of PMFs recovered from crime scenes because some law enforcement departments incorrectly trace some PMFs as commercially manufactured firearms, or may not see a need to use their resources to attempt to trace firearms with no serial number or other identifiable markings. The term ''suspected PMF'' is used because of the difficulty of getting law enforcement officials to uniformly enter PMF trace information into ATF's electronic tracing system (''eTrace''), resulting in reporting inconsistencies of PMFs involved in crime. For example, often PMFs resemble commercially manufactured firearms, or incorporate parts from commercially manufactured firearms bearing that manufacturer's name, so some firearms suspected of being PMFs were entered into eTrace using a commercial manufacturer's name rather than as one privately made by an individual. The term ''potential crime scenes'' is used because ATF does not know if the firearm being traced by the law enforcement agency was found at a crime scene as opposed to one recovered by them that was stolen or otherwise not from at the scene of a crime. This is because the recovery location or correlated crime is not always communicated by the agency to ATF in the tracing process.

[19] *See, e.g., Kissimmee Man Sentenced To Five Years In Prison For Manufacturing Over 200 ''Ghost Guns'' Without A License,* D.O.J Office of Public Affairs (June 12, 2018), *https://www.justice.gov/usao-mdfl/pr/kissimmee-man-sentenced-five-years-prison-manufacturing-over-200-ghost-guns-without; Grass Valley Man Sentenced to 5 Years in Prison for Unlawfully Manufacturing Ghost Guns and Selling Them on Dark Web,* DOJ Office of Public Affairs (Sept. 21, 2018), *https://www.justice.gov/usao-edca/pr/grass-valley-man-sentenced-5-years-prison-unlawfully-manufacturing-ghost-guns-and; Rhode Island Man Charged with Building, Selling ''Ghost'' Machine Gun,* DOJ Office of Public Affairs (Dec. 12, 2018), *https://www.justice.gov/usao-ri/pr/rhode-island-man-charged-building-selling-ghost-machine-gun; Conroe Man Ordered to Prison for Making ''Ghost Guns'',* DOJ Office of Public Affairs (Feb. 21, 2019) *https://www.justice.gov/usao-sdtx/pr/conroe-man-ordered-prison-making-ghost-guns; Seven Felons Indicted, Dozens of Firearms Seized as Part of Investigation Targeting Criminal Gun Sales in Orange County,* DOJ Office of Public Affairs (Oct. 10, 2019), *https://www.justice.gov/usao-cdca/pr/seven-felons-indicted-dozens-firearms-seized-part-investigation-targeting-criminal-gun; Man Sentenced to 15 Years for Trafficking ''Ghost Guns'' and Drugs,* DOJ Office of Public Affairs (Feb. 14, 2020), *https://www.justice.gov/usao-edva/pr/man-sentenced-15-years-trafficking-ghost-guns-and-drugs; Tampa Man Sentenced To Over Five Years For Manufacturing Counterfeit Credit Cards, Fake IDs, And Illegal Firearms,* DOJ Office of Public Affairs (June 26, 2020), *https://www.justice.gov/usao-mdfl/pr/tampa-man-sentenced-over-five-years-manufacturing-counterfeit-credit-cards-fake-ids-and; Alleged Dealer of Ghost Guns and Machinegun Conversion Devices Arraigned,* DOJ Office of Public Affairs (July 15, 2020), *https://www.justice.gov/usao-edva/pr/alleged-dealer-ghost-guns-and-machinegun-conversion-devices-arraigned; Connecticut Man Charged with Firearm Trafficking,* DOJ Office of Public Affairs (Aug. 12, 2020), *https://www.justice.gov/usao-ma/pr/connecticut-man-charged-firearm-trafficking; Operation 'Black Phoenix' Leads to Federal Charges Against 25 Who Allegedly Engaged in Illegal Narcotics and Firearms Sales,* DOJ Office of Public Affairs (Sept. 15, 2020), *https://www.justice.gov/usao-cdca/pr/operation-black-phoenix-leads-federal-charges-against-25-who-allegedly-engaged-illegal; D.C. Felon Pleads Guilty in Federal Court in Maryland to Illegal Possession of a ''Ghost Gun'' Firearm and Ammunition,* DOJ Office of Public Affairs (Sept. 22, 2020), *https://www.justice.gov/usao-md/pr/dc-felon-pleads-gui&lty-federal-court-maryland-illegal-possession-ghost-gun-firearm-and; Ghost Gun and Machine Gun Conversion Device Dealer Pleads Guilty,* DOJ Office of Public Affairs (Sept. 29, 2020), *https://www.justice.gov/usao-edva/pr/ghost-gun-and-machine-gun-conversion-device-dealer-pleads-guilty; Felon sentenced to more than five years in prison for arsenal of 'ghost guns' and smuggled silencers,* DOJ Office of Public Affairs (Oct. 9, 2020), *https://www.justice.gov/usao-wdwa/pr/felon-sentenced-more-five-years-prison-arsenal-ghost-guns-and-smuggled-silencers; Montgomery County Man Admits to Unlawfully Selling ''Ghost Guns'',* DOJ Office of Public Affairs (Nov. 5, 2020), *https://www.justice.gov/usao-ndny/pr/montgomery-county-man-admits-unlawfully-selling-ghost-guns; Drug Dealer Who Sold ''Ghost Guns,'' Silencers, and a Machinegun Sentenced to Thirty Years in Federal Prison,* DOJ Office of Public Affairs (Nov. 6, 2020), *https://www.justice.gov/usao-ndia/pr/drug-dealer-who-sold-ghost-guns-silencers-and-machinegun-sentenced-thirty-years-federal; Baltimore Man Sentenced to 21 Years in Federal Prison for Five Bank Robberies, Five Armed Robberies of Liquor Stores, and Related Firearms Charges,* DOJ Office of Public Affairs (Nov. 12, 2020), *https://www.justice.gov/usao-md/pr/baltimore-man-sentenced-21-years-federal-prison-five-bank-robberies-five-armed-robberies; Philadelphia Man Sentenced to 12½ Years for Trafficking Methamphetamine and Weapons, Including 'Ghost Guns,' Near Schools,* DOJ Office of Public Affairs (Dec. 30, 2020), *https://www.justice.gov/usao-edpa/pr/philadelphia-man-sentenced-12-12-years-trafficking-methamphetamine-and-weapons; Vineland Boys Gang Member Pleads Guilty to Racketeering Offenses, Including Attempted Murder and Narcotics Trafficking,* DOJ Office of Public Affairs (Jan. 22, 2021), *https://www.justice.gov/usao-cdca/pr/vineland-boys-gang-member-pleads-guilty-racketeering-offenses-including-attempted; Burbank Man Arrested on Federal Complaint Alleging He Sold 'Ghost Guns' Out of His Hookah Lounge,* DOJ Office of Public Affairs (Jan. 29, 2021), *https://www.justice.gov/usao-cdca/pr/burbank-man-arrested-federal-complaint-alleging-he-sold-ghost-guns-out-his-hookah; Saratoga County Man Admits to Unlawfully Selling ''Ghost Guns'' and Methamphetamine Distribution,* DOJ Office of Public Affairs (Feb. 3, 2021), *https://www.justice.gov/usao-ndny/pr/saratoga-county-man-admits-unlawfully-selling-ghost-guns-and-methamphetamine; Orange County Man Sentenced to 10 Years in Federal Prison for Brokering Illegal Sales of 'Ghost Guns,' Other Firearms,* DOJ Office of Public Affairs (Feb. 8, 2021), *https://www.justice.gov/usao-cdca/pr/orange-county-man-sentenced-10-years-federal-prison-brokering-illegal-sales-ghost-guns.*

[20] Specifically, the House Report cited a January 11, 2019, Joint Intelligence Bulletin issued by DHS, FBI, and NCTC concluding that ''these rapidly evolving technologies pose an ongoing, metastasizing challenge to law enforcement in understanding, tracking, and tracing ghost guns,'' and an April 19, 2019, DHS intelligence assessment that ''repeated the warning that ghost guns pose an urgent and evolving threat to the homeland, particularly in the hands of ideologically motivated lone wolf actors.'' H.R. Rep. No. 116–88, at 2.

[21] *CBP: 3–D-printed full-auto rifle seized at Lukeville crossing, tucsonsentinel.com* (Feb. 8, 2016), *http://www.tucsonsentinel.com/local/report/020816_3d_printed_gun/cbp-3-d-printed-full-auto-rifle-seized-lukeville-crossing/; Firearms using 3D-printed components seized in Sweden,* Armament Research Services (May 19, 2017), *https://armamentresearch.com/3d-printed-firearms-seized-in-sweden/; The TSA Has Found 3D-Printed Guns at Airport Checkpoints 4 Times Since 2016,* Time (Aug. 2, 2018), *https://time.com/5356179/3d-printed-guns-tsa/; Indiana Residents Indicted on Terrorism and Firearms Charges,* DOJ Office of Public Affairs (July 11, 2019), *https://www.justice.gov/opa/pr/indiana-residents-indicted-terrorism-and-firearms-charges; Use of 3D printed guns in German synagogue shooting must act as warning to security services, experts say, independent.co.uk* (Oct. 11, 2019), *https://www.independent.co.uk/news/world/europe/3d-gun-print-germany-synagogue-shooting-stephan-balliet-neo-nazi-a9152746.html; TSA Confiscated 3D-Printed Guns at Raleigh-Durham International Airport, nextgov.com* (Mar. 4, 2020), *https://www.nextgov.com/emerging-tech/2020/03/tsa-confiscated-3d-printed-guns-raleigh-durham-international-airport/163533/; Man Sentenced for Attempting to Board International Flight with a Loaded Firearm,* DOJ Office of Public Affairs (Mar. 12, 2021), *https://www.justice.gov/usao-sdca/pr/man-sentenced-attempting-board-international-flight-loaded-firearm; Glock ghost guns up for grabs on the dark web,* Australian National University (Mar. 23, 2021), *https://www.anu.edu.au/news/all-news/glock-ghost-guns-up-for-grabs-on-the-dark-web; Spain dismantles workshop making 3D-printed weapons,* BBC, (Apr. 19, 2021), *https://www.bbc.com/news/world-europe-56798743.*

any investigation involving the criminal use of firearms.''); *Blaustein & Reich, Inc.* v. *Buckles,* 220 F. Supp. 2d 535, 537 (E.D. Va. 2002) (ATF has a statutory duty pursuant to the GCA to trace firearms to keep them out of the hands of criminals).[22] An accurate firearm description is necessary to trace a firearm and is required to be recorded by a person licensed to engage in the business of manufacturing, importing, or dealing in firearms, or by a licensed collector of curio or relic firearms, regardless of whether it is a business or personal firearm.[23]

ATF traces firearms found by law enforcement at a crime scene by first contacting the licensed manufacturer or importer marked on the frame or receiver who maintains permanent records of their manufacture or importation and disposition. Using the information obtained from those required records, ATF then contacts each licensed dealer or other licensee who recorded their receipt and disposition to locate the first unlicensed purchaser to help find the perpetrator or otherwise solve the crime.[24] However, because PMFs do not bear a serial number or other markings of a licensed manufacturer or importer, ATF has found it extremely difficult to complete such traces on behalf of law enforcement to individual unlicensed purchasers. From January 1, 2016, through March 4, 2021, ATF could only complete traces of suspected PMFs recovered by law enforcement to an individual purchaser in approximately 151 out of 23,946 attempts, generally by tracing a serial number engraved on a handgun slide, barrel, or other firearm part not currently defined as a frame or receiver, but recorded by licensees in the absence of other markings.[25]

With the proliferation of PMFs, ATF has also received numerous requests from licensees seeking clarity on how they may be accepted and recorded so that they can track their inventories, process warranty claims, reconcile any missing inventory, respond to trace requests, and report lost or stolen PMFs to police and insurance companies. Federal law and regulations require licensees, before conducting business, to inventory the firearms possessed for such business and record it in a Firearms Acquisition and Disposition Record (''A&D Record'').[26] After commencing business, licensees must record all firearms received and disposed of by the business in the A&D Record to include the following information separated into columns: Manufacturer and/or importer, model, serial no., type, and caliber or gauge.[27] When a firearm is disposed to an unlicensed person, licensees are required to complete a Firearms Transaction Record, ATF Form 4473 (''Form 4473'').[28] Like the A&D Record, this form requires licensees to record the manufacturer and importer, model (if designated), serial number, type, and caliber or gauge of the firearm. Licensees are also required by law to report the theft or loss of firearms on a Federal Firearms Licensee Theft/Loss Report, ATF Form 3310.11, which includes a description of the manufacturer, importer, model, serial number, type, and caliber/gauge of each firearm stolen or lost.[29] And when licensees sell or otherwise dispose of multiple pistols or revolvers within five consecutive business days to the same person, they must report to ATF the type, serial number, manufacturer, model, importer, and caliber on a Report of Multiple Sale or Other Disposition of Pistols and Revolvers, ATF Form 3310.4.[30]

However, because PMFs do not have markings identifying the name of a licensed manufacturer or importer, model, serial number, or caliber/gauge, licensees might only record a ''type'' of firearm (*e.g.,* pistol, revolver, rifle, or shotgun) in their A&D Records and on ATF Forms 4473. Over time, as more PMFs are accepted into inventory, it will become increasingly difficult, if not impossible, for licensees and ATF (during inspections) to distinguish between those PMFs physically in the firearms inventory and those recorded in required A&D Records, as well as determine which PMFs recorded as disposed on ATF Form 4473, were those recorded as disposed in the A&D Record.[31] Likewise, it will be difficult for licensees and ATF to accurately determine which PMFs were stolen or lost from inventory, and for police to locate stolen PMFs in the business inventories of pawnbrokers,[32] or to return any recovered stolen or lost PMFs to their rightful owners.

Not only does the inability to distinguish between unmarked firearms

[22] *See also* ATF Ruling 2009–5, p.2 (''The unique marks of identification of firearms serve several purposes. First, the marks are used by Federal firearms licensees to effectively track their firearms inventories and maintain all required records. Second, the marks enable law enforcement officers to trace specific firearms used in crimes from the manufacturer or importer to individual purchasers, and to identify particular firearms that have been lost or stolen. Further, marks help prove in certain criminal prosecutions that firearms used in a crime have travelled in interstate or foreign commerce.'').

[23] *See* 18 U.S.C. 923(g)(1)(D); 27 CFR 478.125(f) (disposition records of a Federal firearms licensee's personal collection firearms must contain a complete description of the firearm); House Consideration and Passage of S.2414, 99th Cong., 2d Sess., 132 Cong. Rec. 15229 (June 24, 1986) (Statement of Rep. Hughes) (''In order for the law enforcement Firearm Tracing Program to operate, some minimal level of recordkeeping is required [for sales from dealers' personal collections]. Otherwise, we will not have tracing capability. This provision simply requires that a bound volume be maintained by the dealer of the sales of firearms which would include a complete description of the firearm, including its manufacturer, model number, and its serial number and the verified name, address, and date of birth of the purchaser. There is only a minimal inconvenience for the dealer, yet obtaining and recording this information is critical to avoid serious damage to the Firearm Tracing Program.'').

[24] Licensees must respond to ATF trace requests within 24 hours. 18 U.S.C. 923(g)(7); *see also J&G Sales Ltd.* v. *Truscott,* 473 F.3d 1043, 1045–46 (9th Cir. 2007) (describing the tracing process).

[25] Source: ATF Office of Strategic Intelligence and Information. These figures were extracted on May 5, 2021, and include traces for both U.S. and international law enforcement agencies.

[26] 27 CFR 478.125(e).

[27] 18 U.S.C. 923(g)(1)(A); 27 CFR 478.125(e), (f).

[28] 18 U.S.C. 923(g)(1)(A); 27 CFR 478.124.

[29] 18 U.S.C. 923(g)(6); 27 CFR 478.39a(b).

[30] 18 U.S.C. 923(g)(3)(A); 27 CFR 478.126a. Pursuant to 18 U.S.C. 923(g)(5)(A), licensed dealers along the Southwest border are also required by demand letter to report to ATF multiple sales of certain rifles during five consecutive business days to the same person on ATF Form 3310.12, including the rifle's serial number, manufacturer, importer, model, and caliber. Also under that statute, licensed dealers with 15 or more trace requests with a ''time-to-crime'' of three years or less must report to ATF the acquisition date, model, caliber or gauge, and the serial number of a secondhand firearm transferred by the dealer.

[31] In *United States* v. *Biswell,* 406 U.S. 311, 315–16 (1972), the Supreme Court explained that ''close scrutiny of [firearms] traffic is undeniably of central importance to federal efforts to prevent violent crime and to assist the States in regulating the firearms traffic within their borders. Large interests are at stake, and inspection is a crucial part of the regulatory scheme, since it assures that weapons are distributed through regular channels and in a traceable manner and makes possible the prevention of sales to undesirable customers and the detection of the origin of particular firearms.'' (citation omitted).

[32] Most states require pawnbrokers to record or report any serial number and other identifying markings on pawned merchandise so that police can determine their origin. *See* Ala. Code section 5–19A–3(1); Alaska Stat. section 08.76.180(a)(4); Ariz. Rev. Stat. section 44–1625(C)(5); Colo. Rev. Stat. section 29–11.9–103(1); Conn. Gen. Stat. section 21–41(c); Del. Code tit. 24, section 2302(a)(1)(b); DC Code section 47–2884.11(d); Fla. Stat. section 538.04(1)(b)(3),(9); Ga. Code section 44–12–132(4); Haw. Rev. Stat. section 445–134.11(c)(10); 205 Ill. Comp. Stat. section 510/5(a); Ind. Code section 28–7–5–19(a)(4); Ky. Rev. Stat. Ann. section 226.040(1)(d)(7); La. Stat. Ann. section 37:1782(16)(a); Mass. Gen. Laws ch. 140 section 79; Mich. Comp. Laws section 446.205(5)(1),(4); Minn. Stat. section 325J.04(Sub.1)(1); Miss. Code Ann. section 75–67–305(1)(a)(iii),(ix); Mo. Rev. Stat. section 367.040(6)(b); Neb. Rev. Stat. section 69–204(3); N.M. Stat. section 56–12–9(A)(3); N.C. Gen. Stat. section 66–391(b)(1); Ohio Rev. Code section 4727.07; Okla. Stat. tit. 59 section 1509(D)(h); S.C. Code Ann. section 40–39–80(B)(1)(l)(iii),(ix); Tenn. Code Ann. section 45–6–209(b)(1)(C),(H); Tex. Fin. Code section 371.157(4); Utah Code section 13–32a–104(1)(h)(i)(A); Va. Code Ann. section 54.1–4009(A)(1); Wash. Rev. Code section 19.60.020(1)(e); W. Va. Code section 47–26–2(b)(1); Wis. Stat. section 134.71(8)(c)(2).

make it extremely difficult for law enforcement to trace PMFs involved in crime, it also makes it more difficult for Federal, State, and local law enforcement to identify and prosecute illegal firearms traffickers who are often tied to violent criminals and armed narcotics traffickers.[33] The ATF Form 4473 is the primary evidence used to prosecute straw purchasers who buy firearms from a Federal firearms licensee on behalf of prohibited persons, such as felons, and other persons who could use them to commit a violent crime. The form is typically the key evidence that the straw purchaser who bought the firearm (and who can pass a background check) made a false statement to the Federal firearms licensee concerning the identity of the actual purchaser when acquiring that firearm, in violation of 18 U.S.C. 922(a)(6) and 924(a)(1)(A), or State law.[34] But as unmarked and difficult-to-trace PMFs proliferate throughout the marketplace, it is likely to become increasingly difficult to prove that firearms acquired under false pretenses on a Form 4473 were the ones found in the hands of the true purchaser—and thus more difficult to prosecute straw purchasers for making false statements.[35] This assumes, of course, that the PMF involved in the crime could even be traced to the Federal firearms licensee, or that the correct Form 4473 could be located. Likewise, the absence of identifying firearm information on multiple sales forms and theft/loss reports makes it more difficult for ATF to identify firearms traffickers and thieves.[36]

Although clarifying the definition of ''frame or receiver'' in this rule would help the firearms industry and the public understand which part of a complete weapon is the regulated ''frame or receiver,'' and more commercially manufactured frames or receivers are likely to be marked by licensed manufacturers as a result, PMFs are increasingly being made or 3D printed at home without any identifying marks, recordkeeping, or background checks. In turn, these firearms are progressively finding their way to licensees who may wish to acquire them so they can advertise and market them broadly, or who may repair, customize, or accept them as security in pawn for a loan. Rulemaking is therefore necessary to ensure that PMFs are not unlawfully manufactured for sale to licensees who may wish to acquire them for resale, or accept them as security in pawn for a loan, as this would undermine the important public safety goals of the GCA to reduce violent crime, which includes assisting State and local law enforcement in their efforts to control the traffic of firearms within their borders.[37] Indeed, several States and municipalities have banned or severely restricted unserialized or 3D printed firearms.[38]

II. Proposed Rule

Due to judicial developments as well as continued technological advancements in firearms manufacturing, maintaining the current definitions negatively affects both public safety and the regulated firearms industry. For these reasons, the Department proposes amending ATF's regulations to clarify the definition of ''firearm'' and to provide a more comprehensive definition of ''frame or receiver'' so that those definitions more accurately reflect firearm configurations not explicitly captured under the existing definitions in 27 CFR 478.11 and 479.11. Further, this NPRM proposes new terms and definitions to take into account technological developments and modern terminology in the firearms industry, as well as amendments to the marking and recordkeeping requirements that would be necessary to implement these definitions. However, nothing in this rule would restrict persons not otherwise prohibited from possessing firearms from making their own firearms at home without markings solely for personal use (not for sale or distribution) in accordance with Federal, State, and local law. Also, while licensed manufacturers who sell or distribute firearms to law enforcement agencies would be subject to this rule, law enforcement agencies (not engaged in the business of manufacturing firearms for sale or distribution) would be excluded from this rule, including associated amendments to the marking and recordkeeping requirements necessary to implement its definitions.

[33] *See United States* v. *Marzzarella,* 614 F.3d 85, 100 (3rd Cir. 2010) (''The direct tracing of the chain of custody of firearms involved in crimes is one useful means by which serial numbers assist law enforcement. But serial number tracing also provides agencies with vital criminology statistics—including a detailed picture of the geographical source areas for firearms trafficking and ''time-to-crime'' statistics which measure the time between a firearm's initial retail sale and its recovery in a crime—as well as allowing for the identification of individual dealers involved in the trafficking of firearms and the matching of ballistics data with recovered firearms.''); *Following the Gun, Enforcing Federal Laws Against Firearms Traffickers,* ATF Publication, pp.1, 26 (June 2000) (serial number obliteration is a clear indicator of firearms trafficking to, among other criminals, armed narcotics traffickers).

[34] *See, e.g., Abramski* v. *United States,* 573 U.S. 169 (2014); *Marshall* v. *Commonwealth,* 822 S.E.2d 389 (Va. App. 2019); *Commonwealth* v. *Baxter,* 956 A.2d 465 (Pa. Super 2008).

[35] *See, e.g., United States* v. *Powell,* 467 F. Supp. 3d 360, 368, 374 (E.D. Va. 2020) (indictment charging false statements on ATF Form 4473 in connection with the purchase of specific handguns listed by date of purchase, make, caliber, model, serial number, and name of FFL); *United States* v. *McCurdy,* 634 F. Supp. 2d 118 (D. Me 2009) (denial of a motion for a new trial discussing whether the firearm sold as documented on the ATF Form 4473 and the firearm introduced at trial were the same).

[36] The lack of firearm description information in theft/loss reports makes it difficult for ATF to match recovered firearms with those reported as lost or stolen, thereby hindering ATF's efforts to enforce the numerous provisions of the GCA that prohibit thefts. *See* 18 U.S.C. 922(i) (transporting or shipping stolen firearms in interstate or foreign commerce); *id.* at 922(j) (receiving, possessing, concealing, storing, bartering, selling, disposing, or pledging or accepting as security for a loan any stolen firearm which has moved in interstate or foreign commerce); *id.* at 922(u) (stealing a firearm that has been shipped or transported in interstate or foreign commerce from the person or premises of an FFL); *id.* at 924(l) (stealing a firearm which is moving in or has moved in interstate commerce); and *id.* at 924(m) (stealing a firearm from a licensee).

[37] *See* Public Law 90–351, sec. 901(a), 82 Stat. 212, 225–26 (1968); 18 U.S.C. 922(b)(2) (prohibiting licensees from selling or delivering any firearm to any person in a State where the purchase or possession by such person of such firearm would be in violation of any State law or published ordinance applicable at the place of sale, delivery, or other disposition); *id.* at 922(t)(2),(4) (NICS background check denied if receipt of firearm by transferee would violate State law); *id.* at 923(d)(1)(F) (requiring license applicants to certify compliance with the requirements of State and local law applicable to the conduct of business).

[38] *See* Cal. Pen. Code. section 29180 (prohibiting ownership of firearms that do not bear a serial number or other mark of identification provided by the State); Conn. Gen. Stat. section 29–36a(a) (prohibiting manufacture of firearms without permanently affixing serial numbers issued by the State); DC Code section 7–2504.08(a) (prohibiting licensees from selling firearms without serial numbers); Haw. Rev. Stat. section 134–10.2 (prohibiting unlicensed persons from producing 3D printed or parts kit firearms without a serial number); Mass. Gen. Laws 269 section 11E (prohibiting manufacture or delivery of unserialized firearms to licensed dealer); N.J. Stat. Ann. section 2C:39–3(n) (prohibiting possession of firearms manufactured or assembled without serial number); N.Y. Penal Law sections 265.50, 265.55 (prohibiting manufacture/possession of undetectable firearms); R.I. Gen. Laws section 11–47–8(e) (prohibiting possession of ''a ghost gun or an undetectable firearm or any firearm produced by a 3D printing process''); Va. Code. Ann. section 18.2–308.5 (prohibiting possession of undetectable firearms); Wash. Rev. Code section 9.41.190 (prohibiting the manufacture with intent to sell of undetectable and untraceable firearms); *see also Philadelphia Becomes First City To Ban 3D-Printed Gun Manufacturing, Reason.com* (Nov. 22, 2013), *https://reason.com/2013/11/22/philadelphia-becomes-first-city-to-ban-3/; County Council Unanimously Approves Ghost Gun Bill, Mocoshow.com (April 6, 2021), https://mocoshow.com/blog/county-council-unanimously-approves-ghost-gun-bill/?fbclid=IwAR1KCyFal3AId31WKCTLanR-uEUj_-dW_T32lND5gfKmle_-nvIbZyT052.*

A. Definition of ''Firearm''

Under the GCA and implementing regulations, the term ''firearm'' includes:

''(A) any weapon (including a starter gun) which *will or is designed to* or *may readily be converted* to expel a projectile by the action of an explosive.'' 18 U.S.C. 921(a)(3); 27 CFR 478.11 (emphasis added). Although weapon parts kits in their unassembled, incomplete, and/or unfinished state or configuration generally will not expel a projectile by the action of an explosive at the time of sale or distribution, weapon parts kits that are ''designed to'' [39] or ''may readily be converted'' [40] to expel a projectile by the action of an explosive are ''firearms'' under the GCA.[41]

In recent years, individuals have been purchasing firearm parts kits with incomplete frames or receivers, commonly called ''80% receivers,'' [42] either directly from manufacturers of the kits or retailers, without background checks or recordkeeping. Some of these parts kits contain most or all of the components (finished or unfinished) necessary to complete a functional weapon within a short period of time. Some of them include jigs, templates, instructions, drill bits, and tools that allow the purchaser to complete the weapon to a functional state with minimal effort, expertise, or equipment. Weapon parts kits such as these are ''firearms'' under the GCA because they are *designed to* or *may readily be converted* to expel a projectile by the action of an explosive.[43] Manufacturers of such parts kits must be licensed, abide by the marking and recordkeeping requirements, and pay Federal Firearms Excise Tax on their sales price.[44] Any Federal firearms licensee that sells such kits to unlicensed individuals would need to complete ATF Forms 4473, conduct NICS background checks, and abide by the recordkeeping requirements applicable to fully completed and assembled firearms.[45] Therefore, to reflect existing case law, this proposed rule would add a sentence at the end of the definition of ''firearm'' in 27 CFR 478.11 providing that ''[t]he term shall include a weapon parts kit that is designed to or may readily be assembled, completed, converted, or restored to expel a projectile by the action of an explosive.''

Nonetheless, this amendment is not intended to affect the classification of a weapon, including a weapon parts kit, in which each frame or receiver (as defined in this proposed rule) of such weapon is properly destroyed in accordance with ATF standards. Because such weapons have been completely destroyed or permanently redesigned not to expel a projectile by the action of an explosive, and cannot readily be converted to do so, ATF would not consider them as either ''designed to'' or ''readily assembled, completed, converted, or restored to expel a projectile by the action of an explosive.'' To make this clear, this proposed rule would add another sentence to the end of the definition of ''firearm'' in 27 CFR 478.11 to provide that ''[t]he term shall not include a weapon, including a weapon parts kit, in which each part defined as a frame or receiver of such weapon is destroyed.'' (see Section II.B.5 of the preamble)

B. Definition of ''Frame or Receiver''

The proposed new regulatory definition of ''frame or receiver'' would be a multi-part definition added to 27

[39] *See* H.R. Rep. 90–1577, at 4416 (June 21, 1968) (''This provision makes it clear that so-called unserviceable firearms come within the definition.''); S. Rep. No. 90–1097, at 2200 (April 29, 1968) (same). Numerous courts have held that weapons *designed to* expel a projectile by the action of an explosive are ''firearms'' under 18 U.S.C. 921(a)(3)(A) even if they cannot expel a projectile in their present form or configuration. *See, e.g., United States* v. *Hardin,* 889 F.3d 945, 946 (8th Cir. 2017) (pistol with broken trigger and numerous missing internal parts was a weapon designed to expel a projectile by the action of an explosive); *United States* v. *Dotson,* 712 F.3d 369 (7th Cir. 2013) (damaged pistol with corroded, missing and broken components); *United States* v. *Rivera,* 415 F.3d 284, 285–87 (2nd Cir. 2005) (pistol with a broken firing pin and flattened firing-pin channel); *United States.* v. *Brown,* 117 F.3d 353 (7th Cir. 1997) (no firing pin); *United States* v. *Reed,* 114 F.3d 1053 (10th Cir. 1997) (shotgun with broken breech bolt); *United States* v. *Hunter,* 101 F.3d 82 (9th Cir. 1996) (pistol with broken firing pin); *United States* v. *Yannott,* 42 F.3d 999, 1005 (6th Cir. 1994) (shotgun with broken firing pin); *United States* v. *Ruiz,* 986 F.2d 905, 910 (5th Cir. 1993) (revolver with hammer filed down); *United States.* v. *York,* 830 F.2d 885, 891 (8th Cir. 1987) (revolver with no firing pin and cylinder did not line up with barrel). *But see United States* v. *Wada,* 323 F. Supp. 2d 1079 (D. Or. 2004) (firearms redesigned as ornaments that ''would take a great deal of time, expertise, equipment, and materials to attempt to reactivate'' were no longer designed to expel a projectile by the action of an explosive and could not readily be converted to do so).

[40] *See, e.g., United States* v. *Wick,* 697 F. App'x 507, 508 (9th Cir. 2017) (complete UZI parts kits ''could 'readily be converted to expel a projectile by the action of an explosive,' meeting the statute's definition of firearm under section 921(a)(3)(A)'' because the ''kits contained all of the necessary components to assemble a fully functioning firearm with relative ease''); *United States* v. *Stewart,* 451 F.3d 1071, 1073 n.2 (9th Cir. 2006) (upholding district court's finding that .50 caliber rifle kits with incomplete receivers were ''firearms'' under 921(a)(3)(A) because they could easily be converted to expel a projectile); *United States* v. *Morales,* 280 F. Supp. 2d 262, 272–73 (S.D.N.Y. 2003) (partially disassembled Tec-9 pistol that could be assembled within short period of time could readily be converted to expel a projectile).

[41] The plain language of the definition of ''firearm'' in 18 U.S.C. 921(a)(3)(A) states that a weapon need not function so long as it is designed to, or may readily be converted to, expel a projectile. Even though they generally cannot function to expel a projectile when sold, weapon parts kits are still ''weapons''—real combat instruments, such as pistols, revolvers, rifles, or shotguns—in an unassembled, unfinished, and/or incomplete state or configuration. There is no minimum utility or lethality requirement in the GCA or NFA for an item to be considered a ''weapon.'' *Cf. United States* v. *Thompson/Center Arms,* 504 U.S. 505, 513, n.6 (1992) (a rifle was ''made'' under the NFA when a pistol was packaged together with a disassembled rifle parts kit); *United States* v. *Hunter,* 843 F. Supp. 235, 256 (E.D. Mich. 1994) (''If Defendants believe that machinegun conversion kits are not in and of themselves 'weapons' under § 921(a)(3), they forget that that section clearly envisions machineguns as weapons.''); *United States* v. *Drasen,* 845 F.2d 731, 736–37 (7th Cir. 1988) (rejecting argument that a collection of rifle parts cannot be a ''weapon'').

[42] The term ''80% receiver'' is a term used by some industry members, the public, and the media to describe a frame or receiver that has not yet reached a stage in manufacture to be classified as a ''frame or receiver'' under Federal law. However, that term is neither found in Federal law nor accepted by ATF.

[43] *See* footnotes 39 and 40, *supra.*

[44] The Internal Revenue Code of 1954, 26 U.S.C. 4181, imposes on the manufacturer, producer, or importer an excise tax of 10% (pistols and revolver) or 11% (other firearms) on the sales price of firearms manufactured, produced, or imported, including complete, but unfinished, weapon parts kits. *See* Rev. Rul. 62–169 (IRS RRU), 1962–2 C.B. 245 (kits which contain all of the necessary component parts for the assembly of shotguns are complete firearms in knockdown condition even though, in assembling the shotguns the purchaser must 'final-shape,' sand, and finish the fore-arm and the stock); *cf.* Rev. Rul. 61–189 (IRS RRU), 1961–2 C.B. 185 (kits containing unassembled components and tools to complete artificial flies for fisherman were sporting goods subject to excise tax); *Hine* v. *United States,* 113 F. Supp. 340, 343 (Ct. Cl. 1953) (''True enough, [these fishing rod kits] might be called 'blanks' by those engaged in the trade, but what could they be called or to what practical use could they be put other than 'fishing rods?' Plaintiff says that it would be extremely difficult if not impossible to case with a 'blank' rod and this is true, but we can conceive of no other practical use for them except as fishing rods. . . . Having reached the stage of manufacture or development where they became recognizable as one of the sporting goods described in Section 3406(a)(1) the rods upon being sold were subject to tax even though there remained one or more finishing operations to be performed.'') (citations omitted).

[45] Additionally, persons who engage in the business of selling or distributing such weapon parts kits cannot avoid licensing, marking, recordkeeping, or excise taxation by selling or shipping the parts in more than one box or shipment to the same person, or by conspiring with another person to do so. *See, e.g., United States* v. *Evans,* 928 F.2d 858 (9th Cir. 1991) (conspiracy to cause and aid and abet the possession of unregistered machineguns where one defendant sold parts kits containing all component parts of Sten machineguns except receiver tubes, and the other sold customers blank receiver tubes along with detailed instructions on how to complete them); Internal Revenue Service Technical Advice Memorandum 8709002, 1986 WL 372494, at 4 (Nov. 13, 1986) (for purposes of imposing Firearms Excise Tax it is irrelevant whether the components of a revolver in an unassembled knockdown condition are sold separately to the same purchaser in various related transactions, rather than sold as a complete kit in a single transaction).

CFR 478.11 and 479.11 (referencing section 478.11). First, there would be a general definition of ''frame or receiver'' with non-exclusive examples that illustrate the definition. This would be followed by supplements that further explain the meaning of the term ''frame or receiver'' for certain firearm designs and configurations, as follows: (a) Firearm muffler or silencer frame or receiver; (b) split or modular frame or receiver, also followed by examples of the frames or receivers for common firearm designs that are distinguishable because of differences in firing cycle, method of operation, or physical design characteristics; (c) partially complete, disassembled, or inoperable frame or receiver; and (d) destroyed frame or receiver. Although the new definition would more broadly define the term ''frame or receiver'' than the current definition, it is not intended to alter any prior determinations by ATF of what it considers the frame or receiver of a particular split/modular weapon. ATF would also continue to consider the same factors when classifying firearms (see Section I.A of the preamble).

1. General Definition of ''Frame or Receiver''

ATF proposes to replace the respective regulatory definitions of ''firearm frame or receiver'' and ''frame or receiver'' in 27 CFR 478.11 and 479.11 because they too narrowly limit the definition of receiver with respect to most current firearms and have led to erroneous district court decisions. Indeed, most firearms currently in circulation in the United States do not have a specific part that expressly falls within the current ''frame or receiver'' regulatory definitions. Most concerning is that the interpretation of these definitions by some courts, relying on the current regulations, would make it easier to obtain the majority of existing firearms, including some of the most advanced semiautomatic weapons, without complying with the requirements of the GCA, and make it far more difficult to trace those firearms after a crime. Should the current definition remain in place and courts continue to interpret it such that no part or parts of most firearms are defined as the frame or receiver, these unserialized parts, easily purchased and assembled to create functioning firearms, would be untraceable, thereby putting the public at risk. While a ''frame or receiver'' is clearly within the statutory definition of what constitutes a ''firearm'' under the GCA, 18 U.S.C. 921(a)(3)(B), clarifying that this term includes how most modern-day firearms operate would help ensure that the regulatory definition of ''frame or receiver'' will not be misinterpreted by the courts, the firearms industry, or the public at large to mean that most firearms in circulation have no part identifiable as a frame or receiver.

As a threshold matter, the new definition makes clear that a ''frame or receiver'' must be visible to the exterior when the complete weapon is assembled so that licensees can quickly record the identifying markings, and law enforcement officers who recover the weapon can easily see the identifying markings for tracing purposes. Nonetheless, as explained in Section II.B.3 of the preamble, an internal frame or chassis at least partially exposed to the exterior to allow identification may be determined by ATF to be the frame or receiver of a split or modular frame or receiver.

Next, the new definition more broadly describes a ''frame or receiver'' as one that provides housing or a structure designed to hold or integrate any fire control component. Unlike the prior definitions of ''frame or receiver'' that were rigidly tied to three specific fire control components (*i.e.,* those necessary for the firearm to initiate or complete the firing sequence), the new regulatory definition is intended to be general enough to encompass changes in technology and parts terminology. With respect to the fire control components housed by the frame or receiver, the definition would include, at a minimum, any housing or holding structure for a hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails. However, the definition is not limited to those particular fire control components.[46] There may be future changes in firearms technology or terminology resulting in housings or holding structures for new or different components that initiate, complete, or continue the firing sequence of weapons that expel a projectile by the action of an explosive. For further clarity, the definition would then give four nonexclusive examples with illustrations of common single-framed firearms: (1) Hinged or single frame revolver (structure to hold the trigger, hammer, and cylinder); (2) bolt-action rifle (structure to hold the bolt and firing pin, and attach the trigger mechanism); (3) break action, lever action, or pump action rifle or shotgun (housing for the bolt and firing pin, or a structure designed to integrate the breechblock); and (4) semiautomatic firearm or machinegun with a single receiver housing all fire control components (housing for the hammer, bolt, trigger mechanism, and firing pin, *e.g.,* AK-type firearms).

Finally, the definition would make clear to persons who may acquire or possess a part now defined as a ''frame or receiver'' that is identified with a serial number that they must presume, absent an official determination by ATF or other reliable evidence to the contrary, that the part is a firearm ''frame or receiver'' without further guidance.

2. Firearm Muffler or Silencer Frame or Receiver

Under the GCA, licensed manufacturers and importers must identify the frame or receiver of each firearm, including a firearm muffler or silencer, with a serial number in accordance with regulations. 18 U.S.C. 921(a)(3)(C), 923(i). The NFA requires firearm manufacturers, importers, and makers to identify each firearm, including a firearm muffler or silencer, with a serial number and such other identification as may be prescribed by regulations. 26 U.S.C. 5842(a); *id.* at 5845(a)(7). Because under the NFA each individual part of a firearm muffler or silencer is a ''firearm''[47] that must be registered in the National Firearms Registration and Transfer Record (''NFRTR''), the regulations currently assume that every part defined as a silencer must be marked in order to be registered, and expressly require that they be marked whenever sold, shipped, or otherwise disposed even though they may be installed by a qualified licensee within a complete muffler or silencer device.[48]

However, this result has caused confusion and concern among many silencer manufacturers because some silencer parts defined as ''silencers,'' such as baffles, are difficult to mark, and make little sense to mark for tracing purposes when the outer tube or

[46] The prefatory paragraph to the definitional sections in the GCA and NFA regulations explain that ''[t]he terms 'includes' and 'including' do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.'' 27 CFR 478.11, 479.11.

[47] A firearm ''muffler or silencer'' is defined to include ''any combination of parts'' designed and intended for the use in assembling or fabricating a firearm silencer or muffler and ''any part intended only for use in such assembly or fabrication.'' 18 U.S.C. 921(a)(24); 26 U.S.C. 5845(a)(7); 27 CFR 478.11; *id.* at 479.11. This rule defines the term ''complete muffler or silencer device'' not to say that individual silencer parts are not considered a firearm ''muffler or silencer'' subject to the requirements of the NFA, but to advise industry members when those individual silencer parts must be marked and registered in the NFRTR when they are used in assembling or fabricating a muffler or silencer device.

[48] *See* 27 CFR 479.101(b); 478.92(a)(4)(iii); 479.102(f)(1).

housing of the complete device is marked and registered. Not only is it difficult for manufacturers to apply identifying markings, there is also the administrative difficulty in timely filing and processing numerous ATF Forms 2, Notice of Firearms Manufactured or Imported upon manufacture of each part, and ATF Forms 3, Application for Tax-Exempt Transfer of Firearm and Registration to Special Occupational Taxpayer upon sale or other disposition of each part to another qualified licensee.

For these reasons, ATF is proposing a number of amendments to clarify how and when firearm muffler or silencer parts must be marked and registered in the NFRTR. Among other changes (see Section II.H.9 of the preamble, below), this rule defines the term ''frame or receiver'' as it applies to a ''firearm muffler or silencer frame or receiver'' and adds the term ''complete muffler or silencer device'' (see Section II.D of the preamble). Under the NPRM, the term ''frame or receiver'' means, ''in the case of a firearm muffler or firearm silencer, a part of the firearm that, when the complete device is assembled, is visible from the exterior and provides housing or a structure, such as an outer tube or modular piece, designed to hold or integrate one or more essential internal components of the device, including any of the following: baffles, baffling material, or expansion chamber.'' These new definitions would clarify for manufacturers and makers of complete muffler or silencer devices that they need only mark each part (or specific part(s) previously determined by the Director) of the device defined as a ''frame or receiver'' under this rule. However, individual muffler or silencer parts must be marked if they are disposed of separately from a complete device unless transferred by qualified manufacturers to other qualified licensees for the manufacture or repair of complete devices (see Section II.H.9 of the preamble).[49]

ATF anticipates that, under this supplemental definition, the outer tube of a complete muffler or silencer device would be considered the frame or receiver with respect to most commercial silencer designs currently on the market. This is because the outer tube would be the only housing for essential internal components (*e.g.,* baffles or baffling material) of the complete device. Marking the outer tube, as distinguished from a smaller non-housing component like an end cap that can be damaged upon expulsion of projectiles, best preserves the ability of law enforcement to trace the silencer device if used in crime, and is consistent with recommendations ATF has received from the firearms industry.[50]

Nonetheless, like the definition of ''frame or receiver'' for projectile weapons, this sub-definition would be flexible enough to encompass changes in technology and parts terminology. This is because any housing or structure designed to hold or integrate an essential internal component of the muffler or silencer device would meet the definition. While the proposed definition gives examples of internal components that manufacturers must consider as essential, *e.g.,* baffles, baffling material, or expansion chamber, it is not limited to those particular components.[51]

3. Split or Modular Frame or Receiver

This second supplement explains that ATF may determine ''in the case of a firearm with more than one part that provides housing or a structure designed to hold or integrate one or more fire control or essential components'' whether one or more specific part(s) of a weapon is the frame or receiver, which may include an internal frame or chassis at least partially exposed to the exterior to allow identification. It then sets forth the factors ATF considers in making this determination: ''(a) Which component the manufacturer intended to be the frame or receiver; (b) which component the firearms industry commonly considers to be the frame or receiver with respect to the same or similar firearms; (c) how the component fits within the overall design of the firearm when assembled; (d) the design and function of the fire control components to be housed or integrated; (e) whether the component may permanently, conspicuously, and legibly be identified with a serial number and other markings in a manner not susceptible of being readily obliterated, altered, or removed; (f) whether classifying the particular component is consistent with the legislative intent of the Act and this part; and (g) whether classifying the component as the frame or receiver is consistent with the Director's prior classifications.'' No single factor is controlling. It would further make clear that ''[f]rames or receivers of different weapons that are combined to create a similar weapon each retain their respective classifications as frames or receivers provided they retain their original design and configuration.''

This supplement to the general definition addresses one of the core problems of the current definition of ''firearm frame or receiver;'' namely, that a majority of firearms now use a split or modular design in which more than one part houses a different fire control component and/or incorporates a striker instead of a hammer. It would make clear that even though a firearm, including a silencer, may have more than one part that falls within the definition of ''frame or receiver,'' ATF may classify a specific part or parts to be the ''frame or receiver'' of a particular weapon. For this reason, manufacturers may wish to submit samples to ATF for classification of one or more particular components as the frame or receiver so that they need only mark a specific part or parts of a weapon, rather than all qualifying parts (see Section II.H.10 of the preamble) or obtain a marking variance (see Section II.H.6 of the preamble). However, this supplemental definition would also make clear that ATF would not classify an internal frame or chassis as a ''frame or receiver'' unless it is at least partially exposed to the exterior to allow identification so that licensees accepting them into inventory can quickly record the identifying markings, and law enforcement officers who recover the weapon can easily see the identifying markings for tracing purposes.[52]

One important goal of this rule is to ensure that it does not affect existing ATF classifications of firearms that specify a single component as the frame or receiver. Application of the rule, as proposed, would not alter these prior

[49] This rule is consistent with ATF enforcement policy. *See* footnote 72 *infra.*

[50] In 2016, ATF issued an Advance Notice of Proposed Rulemaking in response to a petition for rulemaking from a firearms industry trade association recommending that regulations be amended to require that a silencer be marked on the outer tube (as opposed to other locations), unless a variance is granted by the Director on a case-by-case basis for good cause. *See* 81 FR 26764 (May 4, 2016).

[51] *See* footnote 46, *supra.*

[52] Markings must also be clearly visible from the exterior because they may be needed to prove that a criminal defendant had knowledge that the serial number was obliterated or altered. *See, e.g., Lewis* v. *United States,* No. 3:12–0522, 2012 WL 5198090, at *4 (M.D. Tenn. Oct. 19, 2012) (serial number obliterated on the ''visible exterior'' of a revolver); *State* v. *Shirley,* No. 107449, 2019 WL 2156402 (Ct. App. Ohio May 16, 2019) (same); *cf. United States* v. *Sands,* 948 F.3d 709, 719 (6th Cir. 2020) (serial number is not altered or obliterated so long as it is ''visible to the naked eye''); *United States* v. *St. Hilaire,* 960 F.3d 61, 66 (2d Cir. 2020) (''This 'naked eye test' best comports with the ordinary meaning of 'altered'; it is readily applied in the field and in the courtroom; it facilitates identification of a particular weapon; it makes more efficient the larger project of removing stolen guns from circulation; it operates against mutilation that impedes identification as well as mutilation that frustrates it; and it discourages the use of untraceable weapons without penalizing accidental damage or half-hearted efforts.'').

ATF classifications. To provide more clarity, this supplement to the definition would include a nonexclusive list of common weapons with a split/multi-piece frame or receiver configuration for which ATF has previously determined a specific part to be the frame or receiver. If a manufacturer produces or an importer imports a firearm falling within one of these designs as they exist as of the date of publication of a final rule, it can refer to this list to know which part is the frame or receiver. The manufacturer or importer can then mark without needing to ask ATF for a classification. The nonexclusive list identifies the frame or receiver for the following firearms: (i) Colt 1911-type, Beretta/Browning/FN Herstal/Heckler & Koch/Ruger/Sig Sauer/Smith & Wesson/Taurus hammer fired semiautomatic pistols; (ii) Glock-type striker fired semiautomatic pistols; (iii) Sig Sauer P320-type semiautomatic pistols; (iv) certain locking block rail system semiautomatic pistols; (v) AR–15-type and Beretta AR–70-type firearms; (vi) Steyr AUG-type firearms; (vii) Thompson M1A1-type machineguns and semiautomatic variants, and L1A1, FN FAL, FN FNC, MP 38, MP 40, and SIG 550 type firearms, and HK-type machineguns and semiautomatic variants; (viii) Vickers/Maxim, Browning 1919, and M2-type machineguns, and box-type machineguns and semiautomatic variants thereof; and (ix) Sten, Sterling, and Kel-tec Sub-2000-type firearms. However, if there is a present or future split or modular design for a firearm that is not comparable to an existing classification, then the definition of ''frame or receiver'' would advise that more than one part is the frame or receiver subject to marking and other requirements, unless a specific classification or marking variance is obtained from ATF, as described above.

4. Partially Complete, Disassembled, or Inoperable Frame or Receiver

This third supplement would define ''frame or receiver'' to include ''in the case of a frame or receiver that is partially complete, disassembled, or inoperable, a frame or receiver that has reached a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state.'' To determine this status, ''the Director may consider any available instructions, guides, templates, jigs, equipment, tools, or marketing materials.'' For clarification, ''partially complete'' for purposes of this definition ''means a forging, casting, printing, extrusion, machined body, or similar article that has reached a stage in manufacture where it is clearly identifiable as an unfinished component part of a weapon.''

This supplement addresses another core challenge of the existing, definition of firearm ''frame or receiver;'' namely, that it does not address the question when an object becomes a frame or receiver. While the GCA and implementing regulations define a ''firearm'' to include the ''frame or receiver,'' neither delineates when a frame or receiver is created. The crucial inquiry, then, is the point at which an unregulated piece of metal, plastic, or other material becomes a regulated item under Federal law. ATF has long held that a piece of metal, plastic, or other material becomes a frame or receiver when it has reached a critical stage of manufacture. This is the point at which a substantial step has been taken, or a critical line crossed, so that the item in question may be so classified under the law. This ''critical stage of manufacture'' is when the article becomes sufficiently complete to function as a frame or receiver, or may readily be completed, assembled, converted, or restored to accept the parts it is intended to house or hold.[53]

Clarifying this issue is needed to deter the increased sale or distribution of unlicensed and unregulated partially complete or unassembled frames or receivers often sold within parts kits that can readily be completed or assembled to a functional state.[54] Many kits that include unfinished frame or receivers have been sold by nonlicensees who were not required to run a background check or maintain transaction records. Accordingly, prohibited persons have easily obtained them.[55] Moreover, without any markings, they are nearly impossible to trace. Although this addition is intended to capture when an item becomes a frame or receiver that is regulated irrespective of the type of technology used to complete the assembly, frame or receiver molds that can accept metal or polymer, unformed blocks of metal, and other articles only in a primordial state would not—without more—be considered a ''partially complete'' frame or receiver. However, when a frame or receiver is broken or has been disassembled into pieces that can readily be made into a frame or receiver, or is a partially complete frame or receiver forging, casting, or additive printing[56] that has reached a stage in manufacture where it can readily be made into a functional frame or receiver, that article would be a ''frame or receiver'' under the GCA.

5. Destroyed Frame or Receiver

This fourth supplement would exclude from the definition of ''frame or receiver'' any frame or receiver that is destroyed. The supplement describes what it means to be a ''destroyed'' frame or receiver: One permanently altered not to provide housing or a structure that may hold or integrate any fire control or essential internal component, and that may not readily be assembled, completed, converted, or restored to a functional state. This new definition then would set forth nonexclusive acceptable methods of destruction, which have been provided by ATF in past guidance.[57]

[53] ATF Letter to Private Counsel #907010 (Mar. 20, 2015).

[54] The Polymer 80 assembly, for example, may be completed in under thirty minutes. *See, e.g., Silverback Reviews, Polymer 80 Lower Completion/Parts Kit Install,* YouTube (Aug. 19, 2019), *https://www.youtube.com/watch?v=ThzFOIYZgIg* (21-minute video of completion of a Polymer 80 lower parts kit with no slide). Indeed, the internet is replete with people with no experience completing these firearms. *See* HandleBandle, *DIY: How to Build a Gun at Home (That Shoots) Part 1,* YouTube (Oct. 7, 2018), *https://www.youtube.com/watch?v=nO-8Pns9aq4;* HandleBandle, *Polymer 80 with No Experience Tips (Build Part 2),* YouTube (Oct. 7, 2018), *https://www.youtube.com/watch?v=a0JM5v45vsg;*HandleBandle, Legally Building a Gun in My Living Room (5D Tactical Glock Kit), YouTube (Oct. 18, 2018), *https://www.youtube.com/watch?v=5SaNLrhnnuA.*

[55] *See Bridgeport Felon Sentenced to More Than 5 Years in Federal Prison for Possessing Firearms,* Justice.gov (Jan. 7, 2021), *https://www.justice.gov/usao-ct/pr/bridgeport-felon-sentenced-more-5-years-federal-prison-possessing-firearms; Winthrop man had homemade 'ghost' guns and 3,000 rounds of ammunition, prosecutors say, Boston.com* (Aug. 5, 2020), *https://www.boston.com/news/crime/2020/08/05/winthrop-man-had-homemade-ghost-guns-prosecutors-say; 'Ghost Gun' used in shooting that killed two outside Snyder County restaurant,* Penn Live (Jul. 14, 2020), *https://www.pennlive.com/crime/2020/07/ghost-gun-used-in-shooting-that-killed-two-outside-snyder-county-restaurant.html; The gunman in the Saugus High School shooting used a 'ghost gun,'* sheriff says, CNN (Nov. 21, 2019), *https://www.cnn.com/2019/11/21/us/saugus-shooting-ghost-gun/index.html; How the felon killed at Walmart got his handgun, DA says, LehighValleyLive.com* (March 28, 2018), *https://www.lehighvalleylive.com/news/2018/05/how_the_felon_killed_at_walmar.html; 'Ghost guns': Loophole allows felons to legally buy gun parts* online, *KIRO7.com, https://www.kiro7.com/news/local/ghost-guns-federal-loophole-allows-felons-to-legally-buy-gun-parts-online-build-assault-weapons/703695149/.*

[56] ATF does not believe the production of 3D printed frames or receivers is substantial at this time when compared with commercially produced firearms. For the most part, individuals currently make PMFs from parts kits produced commercially, not by using 3D printers. However, the cost, capabilities, and availability of 3D printers are quickly improving.

[57] *See How to Properly Destroy Firearms, ATF.gov, https://www.atf.gov/firearms/how-properly-destroy-firearms;* ATF Rul. 2003–1 (destruction of Browning M1919 type receivers); ATF Rul.2003–2 (FN FAL type receivers); ATF Rul. 2003–3 (H&K G3 type receivers); ATF Rul. 2003–4 (Sten type receivers).

C. Definition of ''Readily''

To provide guidance on how the term ''readily'' is used to classify firearms, including frame or receiver parts kits or weapon parts kits sold with incomplete or unassembled frames or receivers, the NPRM adds this term to 27 CFR 478.11 and 479.11 and defined as ''a process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process.'' It would further list factors relevant in making this determining to include: (a) Time, *i.e.,* how long it takes to finish the process; (b) ease, *i.e.,* how difficult it is to do so; (c) expertise, *i.e.,* what knowledge and skills are required; (d) equipment, *i.e.,* what tools are required; (e) availability, *i.e.,* whether additional parts are required, and how easily they can be obtained; (f) expense, *i.e.,* how much it costs; (g) scope, *i.e.,* the extent to which the subject of the process must be changed to finish it; and (h) feasibility, *i.e.,* whether the process would damage or destroy the subject of the process, or cause it to malfunction. This definition and factors considered in determining whether a weapon, including a weapon parts kit, or unfinished or damaged frame or receiver may readily be assembled, completed, converted, or restored to function are based on case law interpreting the terms ''may readily be converted to expel a projectile'' in 18 U.S.C. 921(a)(3)(A) and ''can be readily restored to shoot'' in 26 U.S.C. 5845(b).[58] Thus, defining the term ''readily'' is necessary to provide further clarity in determining when incomplete weapons or configurations of parts become a ''firearm'' regulated under the GCA and NFA.

D. Definitions of ''Complete Weapon'' and ''Complete Muffler or Silencer Device''

This proposed rule would add definitions for ''complete weapon'' and ''complete muffler or silencer device'' to 27 CFR 478.11 and 479.11. A ''complete weapon'' would be defined as ''a firearm other than a firearm muffler or firearm silencer that contains all component parts necessary to function as designed whether or not assembled or operable.'' Likewise, a ''complete muffler or silencer device'' would be defined as ''a firearm muffler or firearm silencer that contains all of the component parts necessary to function as designed whether or not assembled or operable.'' These definitions are needed to explain when a frame or receiver of a firearm, including a firearm muffler or silencer, as the case may be, must be marked.

E. Definition of ''Privately Made Firearm''

The NPRM proposes adding a definition of ''privately made firearm'' to 27 CFR 478.11 to mean ''[a] firearm, including a frame or receiver, assembled or otherwise produced by a person other than a licensed manufacturer, and without a serial number or other identifying markings placed by a licensed manufacturer at the time the firearm was produced.'' The term would not include a firearm identified and registered in the NFRTR pursuant to chapter 53, title 26, United States Code, or any firearm made before October 22, 1968 (unless remanufactured after that date). This proposed definition explains that PMFs are those firearms that were made by nonlicensees without the markings required by this part, and excludes those already marked and registered in the NFRTR, and any firearm made before enactment of the GCA which, unlike the repealed law it replaced, required all firearms to be marked under federal law.[59] The term ''made'' is incorporated within the term ''privately made firearm'' rather than ''manufacture'' to distinguish between firearms manufactured (or ''made'') by private individuals without a license and those manufactured by persons licensed to engage in the business of manufacturing firearms.[60]

F. Definition of ''Importer's or Manufacturer's Serial Number''

The proposed rule would define the term ''importer's or manufacturer's serial number'' in 27 CFR 478.11 as: ''[t]he identification number, licensee name, licensee city or state, or license number placed by a licensee on a firearm frame or receiver in accordance with this part. The term shall include any such identification on a privately made firearm, or an ATF issued serial number.'' Because ''privately made firearms'' are manufactured by someone other than a licensed manufacturer, the serial number that incorporates the abbreviated Federal firearms license (''FFL'') number placed by a licensee on a PMF under this rule is the ''importer's or manufacturer's serial number.'' This definition would help ensure that the serial numbers and other markings necessary to ensure tracing, including those placed by a licensee on a ''privately made firearm'' or marked with an ATF-issued serial number,[61] to include imported firearms, are considered the ''importer's or manufacturer's serial number'' protected by 18 U.S.C. 922(k), which prohibits their removal, obliteration, or alteration.[62]

[58] *See United States* v. *Dodson,* 519 F. App'x 344, 352–53 (6th Cir. 2013) (gun that was restored with 90 minutes of work, using widely available parts and equipment and common welding techniques, fit comfortably within the readily restorable standard); *United States* v. *TRW Rifle 7.62x51mm Caliber,* 447 F.3d 686, 692 (9th Cir. 2006) (a two-hour restoration process using ordinary tools, including a stick weld, is within the ordinary meaning of ''readily restored''); *United States* v. *Mullins,* 446 F.3d 750, 756 (8th Cir. 2006) (a starter gun that can be modified in less than one hour by a person without any specialized knowledge to fire may be considered ''readily convertible'' under the GCA); *United States* v. *One TRW, Model M14, 7.62 Caliber Rifle,* 441 F.3d 416, 422–24 (6th Cir. 2006) (''[T]he Defendant weapon here had all of the necessary parts for restoration and would take no more than six hours to restore.''); *United States* v. *Woods,* 560 F.2d 660, 664 (5th Cir. 1977) (holding that a weapon was a shotgun within the meaning of 26 U.S.C. 5845(d) and stating ''[t]he fact that the weapon was in two pieces when found is immaterial considering that only a minimum of effort was required to make it operable.''); *United States* v. *Smith,* 477 F.2d 399, 400–01 (8th Cir. 1973) (machinegun that would take around an eight-hour working day in a properly equipped machine shop was readily restored to shoot); *United States* v. *16,179 Molso Italian .22 Caliber Winler Derringer Convertible Starter Guns,* 443 F.2d 463 (2d Cir. 1971) (starter guns converted in no more than 12 minutes to fire live ammunition were readily convertible under the GCA); *United States* v. *Morales,* 280 F. Supp. 2d 262, 272–73 (S.D.N.Y. 2003) (partially disassembled Tec-9 pistol that could be assembled within a short period of time could readily be converted to expel a projectile); *United States* v. *Catanzaro,* 368 F. Supp. 450, 453 (D. Conn. 1973) (a sawed-off shotgun was ''readily restorable to fire'' where it could be reassembled in one hour and the necessary missing parts could be obtained at a Smith & Wesson plant); *compare with United States* v. *Seven Miscellaneous Firearms,* 503 F. Supp. 565, 574–75 (D.D.C. 1980) (weapons could not be ''readily restored to fire'' when restoration required master gunsmith in a gun shop and $65,000 worth of equipment and tools).

[59] The Federal Firearms Act of 1938 (repealed), the predecessor to the GCA, made it unlawful for a person to receive a firearm that had the manufacturer's serial number removed, obliterated or altered. 15 U.S.C. 902(i). Regulations promulgated to implement this law required each firearm manufactured after July 1, 1958, to be identified with the name of the manufacturer or importer, a serial number, caliber, and model. However, there was an exception from the serial number and model requirements for any shotgun or .22 caliber rifle unless that firearm was also subject to the NFA. 26 CFR 177.50 (rescinded).

[60] Both the GCA and NFA define the term ''manufacturer'' as any person ''engaged in the business of manufacturing firearms,'' and the GCA further defines the term ''licensed manufacturer'' as ''any such person licensed under the provisions of this chapter.'' 18 U.S.C. 921(a)(10); 26 U.S.C. 5845(m). The NFA further defines the term ''make,'' and the various derivatives of that word, to include ''manufacturing (other than by one qualified to engage in the business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.'' 26 U.S.C. 5845(i).

[61] ATF occasionally issues serial numbers for placement on firearms in which the serial numbers were not originally placed, *see* 26 U.S.C. 5842(b), or were accidentally removed, damaged, or worn due to routine use or other innocent reason.

[62] In addition to Federal law, 18 U.S.C. 922(k) and 26 U.S.C. 5861(g), (h), (i), almost every state prohibits the removal, alteration, or obliteration of a firearm's serial number or possession of a firearm with a serial number that has been removed,

G. Definition of ''Gunsmith'' [63]

To provide greater access to professional marking, this proposed rule would clarify that the meaning of the term ''gunsmith'' includes persons who engage in the business of identifying firearms for nonlicensees so that gunsmiths may become licensed as dealer-gunsmiths solely to provide professional PMF marking services. Specifically, this proposed rule would amend the definition of ''engaged in the business'' as it applies to a ''gunsmith'' in 27 CFR 478.11 to clarify the meaning of that term as someone ''who, as a service performed on existing firearms not for sale or distribution by a licensee, devotes time, attention, and labor to repairing or customizing firearms, making or fitting special barrels, stocks, or trigger mechanisms to firearms, or identifying firearms in accordance with this chapter, as a regular course of trade or business with the principal objective of livelihood or profit, but such term shall not include a person who occasionally repairs or customizes firearms, or occasionally makes or fits special barrels, stocks, or trigger mechanisms to firearms.''

This amendment would make clear that businesses that routinely repair or customize existing firearms, make or fit special barrels, stocks, or trigger mechanisms, or mark firearms as a service performed on firearms not for sale or distribution by a licensee, may be licensed as dealer-gunsmiths rather than as manufacturers.[64] Under this rule, PMFs would first need to be recorded by the dealer-gunsmith as an acquisition in the licensee's A&D Records upon receipt from the private owner (whether or not the licensee keeps the PMF overnight), and once marked, the licensee would update the acquisition entry with the identifying information, and then record its return as a disposition to the private owner. This would ensure that the PMF, if ever found by police at a crime scene, can be traced. However, no ATF Form 4473 or NICS background check would be required upon return of the marked firearm to the person from whom it was received, pursuant to 27 CFR 478.124(a).

H. Marking Requirements for Firearms

1. Information Required To Be Marked on the Frame(s) or Receiver(s)

To properly implement the new definitions, this proposed rule would amend 27 CFR 478.92(a) and 479.102 to explain how and when markings must be applied on each part defined as a frame or receiver, particularly since there could be more than one part of a complete weapon, or complete muffler or silencer device, that is the frame or receiver (*i.e.,* when ATF has not identified specific part(s) as the frame or receiver). After publication of a final rule, each frame or receiver of a new firearm design or configuration manufactured or imported after the date of publication of the final rule would need to be marked with a serial number, and *either:* (a) The manufacturer's or importer's name (or recognized abbreviation), and city and State (or recognized abbreviation) where the manufacturer or importer maintains their place of business, or in the case of a maker of an NFA firearm, where the firearm was made; or (b) the manufacturer's or importer's name (or recognized abbreviation), and the serial number beginning with the licensee's abbreviated FFL number as a prefix, which is the first three and last five digits followed by a hyphen, and then followed by a number (which may incorporate letters and a hyphen) as a suffix, *e.g.,* ''12345678–[number].'' The serial number (with or without the FFL prefix) identified on each part of a weapon defined as a frame or receiver must be the same number, but must not duplicate any serial number(s) placed by the licensee on any other firearm.

The additional information required to be marked on each frame or receiver (*i.e.,* name, city and state, or name and abbreviated serial number) would only apply to new designs or configurations of firearms manufactured or imported after publication of the rule. Licensed manufacturers and importers may continue to identify the additional information on firearms (other than PMFs) of the same design and configuration as they existed before [effective date of the rule] under the prior content rules, and any rules necessary to ensure such identification will remain effective for that purpose. This provision is intended to reduce production costs incurred by licensees.

Requiring Federal firearms licensees to mark in this manner on each part defined as a frame or receiver would make it possible for ATF to trace the firearm if the manufacturer's or importer's name, city, or state is marked on the slide or barrel, and the original components are later separated. At the same time, it would give an option for manufacturers and importers to avoid marking their city and state as currently required at §§ 478.92(a)(1)(ii)(D), (E) and 479.102(a)(1)(iv) and (v), or obtain a marking variance from this requirement, by allowing them to mark their abbreviated license number as a prefix to the serial number as an alternative because this information can be obtained by looking up the licensee's information. Except for silencer parts transferred by manufacturers to other qualified manufacturers and dealers for completion or repair of devices (see Section II.H.9 of the preamble), there would be no change to the existing requirement that each part defined as a machinegun or silencer that is disposed of separately and not part of a complete weapon or device be marked with all required information because individual machinegun conversion and silencer parts are ''firearms'' under the NFA that must be registered in the NFRTR. 26 U.S.C. 5841(a)(1); *id.* at 5845(a), (b). However, for frames or receivers, and individual machinegun conversion or silencer parts defined as ''firearms'' that are disposed of separately, the model designation and caliber or gauge may be omitted if it is unknown at the time the part is identified.

altered, or obliterated. *See* Ala. Code section 13A–11–64; Alaska Stat. section 11.61.200; Ariz. Rev. Stat. section 13–3102; Ark. Code section 5–73–107; Cal. Penal Code section 23900; Colo. Rev. Stat. section 18–12–103; Conn. Gen. Stat. section 29–36; Del. Code tit. 11 section 1459; Fla. Stat. Ann. section 790.27; Ga. Code. Ann. section 16–9–70; Haw. Rev. Stat. section 134–10; Idaho Code Ann. section 18–2410; 720 Ill. Comp. Stat. section 5/24–5; Ind. Code section 35–47–2–18; Kan. Stat. Ann. section 21–6306; Ky. Rev. Stat. section 527.050; La. Stat. Ann. section 40:1788; Me. Stat. tit. 17–A section 705(E); Md. Code Pub. Safety section 5–142; Mass. Gen. Laws 269 section 11C; Mich. Comp. Laws section 750.230; Minnesota Stat. section 609.667; Mo. Rev. Stat. section 571.050; Mont. Code Ann. section 45–6–326; Neb. Rev. Stat. sections 28–1207, 28–1208; Nev. Rev. Stat. section 202.277; N.H. Rev. Stat. Ann. section 637:7–a; N.J. Stat. Ann. section 2C:39–3(d); N.Y. Penal Law section 265.02(3); N.C. Gen. Stat. section 14–160.2; N.D. Cent. Code section 62.1–03–05; Ohio Rev. Code section 2923.201; Okla. Stat. tit. 21 section 1550(B); Or. Rev. Stat. section 166.450; 18 Pa. Cons. Stat. sections 6110.2, 6117; R.I. Gen. Laws section 11–47–24; S.C. Code. Ann. section 16–23–30(C) (handguns); S.D. Codified Laws 22–14–5; Tenn. Code Ann. section 39–14–134; Tex. Penal Code section 31.11; Utah Code section 76–10–521 (handguns); Va. Code Ann. section 18.2–311.1; Wash. Rev. Code section 9.41.140; W. Va. Code section 18.2–311.1; Wis. Stat. section 943.37(3).

[63] The term ''gunsmith'' is not used in the GCA; however, the Firearm Owners' Protection Act, Public Law 99–308, amended the GCA to define ''engaged in the business'' as applied to dealers to clarify when gunsmiths must have a license. *See* 18 U.S.C. 921(a)(11)(B); *id.* at (a)(21)(D); 132 Cong. Rec. 9603–04 (May 6, 1986) (statement of Sen. McClure).

[64] By clarifying the definition of gunsmith to mean a service routinely performed on existing firearms that are not for sale or distribution by a licensee, this rule would supersede ATF Ruling 2010–10, which allows gunsmiths under specified conditions to engage in certain manufacturing activities for licensed manufacturers. This would eliminate a significant source of confusion among regulated industry members and the public as to who needs a license to manufacture firearms. *See Broughman* v. *Carver,* 624 F.3d 670 (4th Cir. 2010) (distinguishing dealer-gunsmiths from manufacturers).

2. Size and Depth of Markings

This proposed rule would not change the existing requirements for size and depth of markings in 27 CFR 478.92(a)(1) and 479.102(a), but for sake of clarity, consolidates them into a standalone paragraph along with the existing method of measuring the size and depth of markings set forth in 27 CFR 478.92(a)(5) and 479.102(b).

3. Period of Time To Identify Firearms

Neither the GCA nor the NFA explain at what point in the manufacturing process the required markings must be placed. In this regard, the proposed rule would make a distinction between the manufacture or making of a complete weapon or complete muffler or silencer device, and each part, including a replacement part, defined as a frame or receiver, machinegun, or firearm muffler or firearm silencer that is not a component part of a complete weapon or device at the time it is sold, shipped, or otherwise disposed. Complete weapons or complete muffler or silencer devices, as defined in this rule, would be allowed to be marked up to seven days from completion of the active manufacturing process for the weapon or device, or prior to disposition, whichever is sooner. Except for silencer parts produced by qualified manufacturers for transfer to other licensees to complete or repair silencer devices (see Section II.H.9 of the preamble), parts defined as a frame or receiver, machinegun, or firearm muffler or firearm silencer that are not component parts of a complete weapon or device when disposed of would be allowed to be marked up to seven days following the date of completion of the active manufacturing process for the part, or prior to disposition, whichever is sooner. Adding this language would codify ATF Ruling 2012–1, and this ruling would become obsolete upon publication of the rule. As explained in that ruling, whether the end product is to become a complete weapon or device, or a frame or receiver to be disposed of separately, firearms that are actively awaiting materials, parts, or equipment repair to be completed are still considered to be actively in the manufacturing process.

4. Marking of Privately Made Firearms

Because privately made firearms do not have the identifying markings required of commercially manufactured firearms, this rule proposes to amend 27 CFR 478.92 to require FFLs to mark, or supervise the marking of, the same serial number on each frame or receiver (as defined in this rule) of a weapon that begins with the FFL's abbreviated license number (first three and last five digits) as a prefix followed by a hyphen on any ''privately made firearm'' (as defined) that the licensee acquired (*e.g.,* ''12345678–[number]''). Unless previously identified by another licensee, PMFs acquired by licensees on or after the effective date of the rule would need to be marked in this manner within seven days of receipt or other acquisition (including from a personal collection), or before the date of disposition (including to a personal collection), whichever is sooner.[65] For PMFs acquired by licensees before the effective date of the rule, licensees would be required to mark or cause them to be marked by another licensee either within 60 days from that date, or before the date of final disposition (including to a personal collection), whichever is sooner. With respect to polymer firearms, including those that are produced using additive manufacturing (also known as ''3D printing''), the method of marking would typically require the licensee to embed (or use pre-existing) metal serial number plates within the plastic to ensure they cannot be worn away during normal use.[66] Incorporation of this metal plate along with other metal components would also help ensure that the polymer firearm does not violate the Undetectable Firearms Act, 18 U.S.C. 922(p), which prohibits the manufacture and possession of firearms that are not as detectable as the ''Security Exemplar'' that contains 3.7 ounces of material type 17–4 PH stainless steel.[67]

PMFs currently in inventory that a licensee chooses not to mark may also be destroyed or voluntarily turned in to law enforcement within the 60-day period. Also, this proposed rule would not require Federal firearms licensees to accept any PMFs, or to mark them themselves. Licensees would be able to refuse to accept PMFs, or arrange for private individuals to have them marked by another licensee before accepting them, provided they are properly marked in accordance with this proposed rule. To provide greater access to professional marking, as stated previously, this rule would clarify that the meaning of the term ''gunsmith'' includes persons who engage in the business of identifying firearms for nonlicensees so that gunsmiths may become licensed as dealer-gunsmiths solely to provide professional PMF marking services.

Consistent with the language and purpose of the GCA, this proposed provision is necessary to allow ATF to trace all firearms acquired and disposed of by licensees, prevent illicit firearms trafficking, and provide guidance to FFLs and the public with respect to PMF transactions with the licensed community. This provision is crucial in light of advances in technology that allow unlicensed persons easily to produce firearms at home from parts ordered online, or by using 3D printers or personally owned or leased equipment. Such privately made firearms have and will continue to make their way to the primary market in firearms throughout the licensed community.[68] At the same time, consistent with the intent of the GCA,[69] nothing in this rule would restrict persons not otherwise prohibited from possessing firearms from making their own firearms at home without markings solely for personal use (not for sale or distribution) in accordance with Federal, State, and local law.[70] Persons should consult the laws and officials in their own States and localities to determine the lawfulness of PMFs.

[65] Under this rule, licensed collectors would only need to mark PMFs they receive or otherwise acquire that are defined as ''curios or relics.'' *See* 27 CFR 478.11 (definitions of ''firearm'' and ''curios or relics'').

[66] When the size and depth of markings regulations were first promulgated, ATF recognized that ''all markings can be removed by someone who wishes to make a deliberate effort to remove the markings. Realistically, we need to be concerned about markings that could be worn away during normal use or markings that could survive normal refinishing processes, *e.g.,* blueing, plating, etc. . . . As such, ATF has required manufacturers and importers who use polymer plastic frames to mark serial numbers in a steel plate embedded within the plastic.'' 66 FR 40599 (Aug. 3, 2001).

[67] Handguns that are 3D printed are also subject to the registration and taxation requirements of the NFA if they have a smooth bore and are capable of being concealed on the person, thereby falling within the definition of ''any other weapon.'' *See* 26 U.S.C. 5845(e).

[68] Under Federal law, for example, certain firearm transactions must be conducted through Federal firearms licensees. *See* 18 U.S.C. 922(a)(5) (prohibiting any person other than a licensee, subject to certain limited exceptions, from selling or delivering a firearm to an unlicensed out of state resident).

[69] *See* Public Law 90–351, sec. 901(b), 82 Stat. 227.

[70] This rule is also consistent with the Second Amendment. As the Supreme Court stated in *District of Columbia* v. *Heller,* 554 U.S. 570, 626–27 & n.26 (2008), ''presumptively lawful regulatory measures'' include those ''imposing conditions and qualifications on the commercial sale of arms.'' *See also United States* v. *Marzzarella,* 614 F.3d 85, 99 (3d Cir. 2010) (concluding that even if strict scrutiny were to apply, 18 U.S.C. 922(k) (prohibiting possession of firearms with obliterated serial numbers) would be upheld under the Second Amendment because ''serial number tracing serves a governmental interest in enabling law enforcement to gather vital information from recovered firearms. Because it assists law enforcement in this manner, we find its preservation is not only a substantial but a compelling interest.'').

5. Meaning of Marking Terms

An additional amendment to 27 CFR 478.92 and 478.102 would clarify the meaning of the terms ''legible'' and ''legibly'' to ensure that ''the identification markings use exclusively Roman letters (*e.g.,* A, a, B, b, C, c) and Arabic numerals (*e.g.,* 1, 2, 3), or solely Arabic numerals, and may include a hyphen,'' and that the terms ''conspicuous'' and ''conspicuously'' are understood to mean that ''the identification markings are capable of being easily seen with normal handling of the firearm and unobstructed by other markings when the complete weapon is assembled.'' This would codify the meaning of those terms as explained in ATF Ruling 2002–6 (''legible''), and ATF's final rule at 66 FR 40599 (Aug. 3, 2001) (referencing U.S. Customs Service regulations on the definition of ''conspicuous'').

6. Alternate Means or Period of Identification

This proposed rule would not alter the Director's ability to authorize other means of identification, or a ''marking variance,'' for any part defined as a firearm (including a machinegun or silencer) upon receipt of a letter application or an Application for Alternate Means of Identification of Firearms (Marking Variance), ATF Form 3311.4, showing that such other identification is reasonable and does not hinder the effective administration of the regulations. The amendment would also allow ATF to grant a variance from the period in which to mark firearms.

7. Destructive Device Period of Identification

Similar to other firearms, because the proposed rule would now specify the seven-day grace period in which to mark all completed firearms, including destructive devices, this rule would also allow ATF to grant a variance from this period. The marking requirements for destructive devices are otherwise unchanged.

8. Adoption of Identifying Markings

This rule proposes to authorize licensed manufacturers and importers to adopt an existing serial number, caliber/gauge, model, or other markings already identified on a firearm provided they legibly and conspicuously place, or cause to be placed, on each part (or part(s) previously determined by the Director) defined as a frame or receiver either: Their name (or recognized abbreviation), and city and State (or recognized abbreviation) where they maintain their place of business; or their name (or recognized abbreviation) and their abbreviated FFL number, which is the first three and last five digits followed by a hyphen, and then followed by the existing serial number (including any other abbreviated FFL prefix) as a suffix, *e.g.,* ''12345678–[serial number],'' to ensure the traceability of the firearm. This language would supersede ATF Ruling 2013–3 as it applies to licensed manufacturers and importers, but the ruling would remain effective for makers of NFA firearms. This change would help avoid multiple markings on firearms that could be confusing to law enforcement and alleviate concerns of some manufacturers and importers regarding serial number duplication when firearms are remanufactured or reimported.

9. Firearm Muffler or Silencer Parts Transferred Between Qualified Licensees

Licensed and qualified firearm muffler or silencer manufacturers routinely transfer small internal muffler or silencer components to each other to produce complete devices, and between qualified licensees when repairing existing devices. Because of the difficulties and expense of marking and registering small individual components used to commercially manufacture a complete muffler or silencer device with little law enforcement benefit, this proposed rule would allow qualified manufacturers to transfer parts defined as a firearm muffler or silencer to other qualified manufacturers without immediately identifying or registering them. Once the new device is complete with the part, the manufacturer would be required to identify and register the device in the manner and within the period specified in this rule for a complete device. Likewise, the proposed rule would allow qualified manufacturers to transfer muffler or silencer replacement parts to qualified manufacturers and dealers to repair existing devices already identified and registered in the NFRTR. Further, this rule would amend the definition of ''transfer'' to clarify that the temporary conveyance of a lawfully possessed NFA firearm, including a silencer, to a qualified manufacturer or dealer for the sole purpose of repair, identification, evaluation, research, testing, or calibration, and return to the same lawful possessor is not a ''transfer'' requiring additional identification or registration in the NFRTR. This change would be consistent with the definition of ''transfer'' in 26 U.S.C. 5845(j) because a temporary conveyance for these purposes is not a sale or other disposition.[71] These proposed rules are intended to reduce the practical and administrative problems of marking and registering silencer parts by the regulated industry, and avoid a potential resource burden on ATF to process numerous tax-exempt registration applications with little public safety benefit.[72]

10. Voluntary Classification of Firearms and Armor Piercing Ammunition

For many years, ATF has acted on voluntarily requests from persons, particularly manufacturers who are developing new products, by issuing determinations or ''classifications'' whether an item is a ''firearm'' or ''armor piercing ammunition'' as defined in the GCA or NFA. This helps regulated industry members and the public determine what laws and regulations may be applicable to the product, and any steps that they may need to take to be compliant with those laws and regulations. To clarify this process, this proposed rule would set forth the procedure and conditions by which persons may voluntarily submit such requests to ATF. Each request would be submitted in writing or on an ATF form executed under the penalties of perjury with a complete and accurate description of the item, the name and address of the manufacturer or importer thereof, and a sample of such item for examination along with any instructions, guides, templates, jigs, equipment, tools, or marketing materials that are made available to the purchaser or recipient of the item. Upon completion of the examination, ATF may return the sample to the person who made the request unless a determination is made that return of the

[71] The definition of ''transfer'' in the NFA only includes ''selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of'' a firearm. *See United States* v. *Smith,* 642 F.2d 1179, 1182 (9th Cir. 1981) (''We cannot agree that Congress intended to impose a transfer tax and require registration whenever mere physical possession of a firearm is surrendered for a brief period.'').

[72] These changes are consistent with ATF enforcement policy. *See NFA Handbook,* ATF E-Publication 5320.8 (April 2009), pp. 46, 60 sections 7.4.6; 9.5.1. With regard to silencer repairs, in order to avoid any appearance that an unlawful ''transfer'' has taken place, ATF recommends that an Application for Tax Exempt Transfer and Registration of Firearm, ATF Form 5, be submitted for approval prior to conveying the firearm for repair or identifying the firearm. The conveyance may also be accomplished by submission of a letter from the registrant to the qualified FFL advising the FFL that the registrant is shipping or delivering the firearm for repair/identification and describing the repair or identification. Return of the registered silencer to the registrant may likewise be accomplished by submission of an ATF Form 5 or by a letter from the FFL to the registrant that accompanies the silencer.

sample would be or place the person in violation of law.

ATF's decision whether to classify an item voluntarily submitted is entirely discretionary. The proposed procedure would assist ATF more efficiently to determine the design and intent of the manufacturer of the item through its written statements, and by examining the objective design features of an actual sample along with any instructions, guides, templates, jigs, equipment, tools, or marketing materials that are made available to the purchaser or recipient of the item (though ATF is not limited to examining the items submitted to make its determination). The proposed rule would further codify ATF's policy not to evaluate a firearm accessory or attachment ''unless it is installed on the firearm(s) in the configuration for which it is designed and intended to be used,'' and would further explain that ''[a] determination made by the Director under this paragraph shall not be deemed by any person to be applicable to or authoritative with respect to any other sample, design, model, or configuration.''

I. Recordkeeping

1. Acquisition and Disposition Records

This proposed rule would make minor amendments to 27 CFR 478.122, 478.123, 478.125, and 478.125a, pertaining to the acquisition and disposition records maintained by importers, manufacturers, and dealers. Due to the possibility that a firearm may have more than one frame or receiver as defined in this rule, and the changes to marking regulations, this rule would make technical amendments to these recordkeeping regulations to make certain words plural, (*e.g.,* manufacturer(s), importer(s), and serial number(s)) in the regulations and for the formatting of their records as applicable. Although under §§ 478.11 and 479.11 singular terms in the regulations must always be read to include the plural form, and vice versa, these changes are necessary to ensure that Federal firearms licensees record more than one manufacturer, importer, or serial number, if appropriate, when acquiring or disposing of firearms with multiple components marked as the frame or receiver, or that have been remanufactured or reimported by another licensee. This is consistent with prior ATF guidance to the firearms industry.[73] However, to reduce costs incurred by licensees, ATF anticipates that it would exercise its discretion not to enforce these format changes to the A&D Record until an existing paper record book is completed (*i.e.,* ''closed out'') or electronic record version updated in the normal course of business, provided the information is accurately recorded as required in the existing record.

Over the years, licensed importers and manufacturers have asked ATF to allow them to consolidate their records of importation or manufacture and acquisition and disposition of firearms, rather than maintaining separate records as required by 27 CFR 478.122(d) and 478.123(d). Because separate records are also difficult for ATF to inspect, this rule would amend §§ 478.122 and 478.123 to require licensed importers and manufacturers to consolidate their records of importation, manufacture, or other acquisition, and their sale or other disposition in a format containing the applicable columns specified in a table included in § 478.122(b). The columns may be in a different order than the specified format provided they contain all required information. These changes would supersede ATF Rulings 2011–1 and 2016–3, and those rulings would become obsolete upon publication of a final rule.

This rule would also make minor clarifying edits to the format of the Firearms Acquisition and Disposition Record in § 478.125(e). The column titled ''Name and address or name and license No.'' would be retitled as ''Name and address of nonlicensee; or if licensee, name and License No.'' In addition, the column titled ''Address or License No. if licensee, or Form 4473 Serial No. if Forms 4473 filed numerically'' would be retitled ''Address of nonlicensee; License No. of licensee; or Form 4473 Serial No. if such forms filed numerically.'' This change would make clear that both the name and license number (not the address) of a licensee from whom firearms are received and to whom they are disposed are recorded in the A&D Record. However, to reduce costs incurred by licensees, ATF anticipates that it would exercise its discretion not to enforce these format changes to the A&D Record until an existing paper record book is completed (*i.e.,* ''closed out'') or electronic record version updated in the normal course of business, provided the information is accurately recorded as required in the existing record.

The proposed changes to § 478.125 would also include a minor amendment to paragraph (f) to make it clear that in the event the licensee records a duplicate entry with the same firearm and acquisition information, whether to close out an old record book or for any other reason, the licensee must record a reference to the date and location of the subsequent entry (*e.g.,* date of new entry, book name/number, page number, and line number) as the disposition. This change is needed to ensure that acquisition records are closed out when firearms are no longer in inventory.[74] This would resolve a significant problem that ATF Industry Operations Investigators have when trying to reconcile the inventory of a Federal firearms licensee, and that Federal firearms licensees have when timely responding to trace requests, particularly when old A&D Records are ''closed out'' and stored, which, under this proposed rule, could be in a separate warehouse depending on their age (see Section II.J of the preamble).

2. Firearms Transaction Records

Some technical amendments would be needed at 27 CFR 478.124 pertaining to information recorded on the ATF Form 4473. Like changes to the recordkeeping regulations, these amendments would make certain words plural, (*e.g.,* manufacturer(s), importer(s), and serial number(s)) to ensure that the Federal firearms licensee is recording more than one manufacturer, importer, and serial number, if appropriate, on Forms 4473. In addition, the proposed changes to § 478.124 would include a minor technical amendment to paragraph (f) by removing a phrase that indicates that a Federal firearms licensee must fill out the firearm description information only after filling out the information about the transferee. Making this deletion would codify ATF Procedure 2020–1, which sets forth an alternative method of complying with § 478.124(f) for non-over-the-counter firearm transactions. ATF recently issued that procedure in light of changes to ATF Form 4473 (May 2020), which now requires completion of the form in an order different from that provided in § 478.124(f).

3. Recordkeeping for Privately Made Firearms

Minor changes to the above regulations regarding recordkeeping by licensees would also be needed to account for any voluntary receipts or other acquisitions (including from a personal collection) of privately made firearms, and corresponding dispositions (including to a personal collection). Since PMFs are not

[73] *See* FFL Newsletter, May 2012, p.5 (''If a firearm is marked with two manufacturer's names, or multiple manufacturer and importer names, FFLs should record each manufacturers' and importers' name in the A&D record.'').

[74] This is consistent with prior ATF guidance to the firearms industry. *See* FFL Newsletter, Sept. 2011, p.5.

commercially manufactured, if a PMF were received or otherwise acquired by a licensee or disposed of, or imported, the abbreviation ''PMF'' would be recorded as the manufacturer in the appropriate column on a licensee's acquisition and disposition record, ATF Form 4473, or import application, as well as the PMF serial number beginning with the abbreviated FFL number in the serial number column. For PMFs received prior to the effective date of a final rule that are to be identified by the licensee in accordance with § 478.92, or by another licensee at the licensee's request, the licensee would be required to first record the firearm as an acquisition in the licensee's A&D Records upon receipt from the private owner (whether or not the licensee keeps the PMF overnight). Once marked, the licensee would update the acquisition entry with the identifying information, and then record its return as a disposition to the private owner. However, to reduce costs incurred by licensees, ATF anticipates that it would exercise its discretion not to enforce a title format change to the A&D Record to add ''and/or PMF'' in the manufacturer column until an existing paper record book is completed (*i.e.,* ''closed out'') or electronic record version updated in the normal course of business, provided each PMF received is accurately recorded as a ''PMF'' in the manufacturer column.

4. NFA Forms Update

Minor technical amendments would also be needed in 27 CFR 479.62, 479.84, 479.88, 479.90, and 479.141, pertaining to NFA Form 1 (Application to Make), NFA Form 4 (Application to Transfer), NFA Form 3 (Tax Exempt Transfers—SOTs), NFA Form 5 (Tax Exempt Transfers—Governmental Entities), and the Stolen or Lost Firearms report, respectively. Due to the new definitions and changes to marking regulations, the technical amendments here would make certain words plural (*e.g.,* manufacturer(s), importer(s), serial number(s)) in the regulations as applicable. Although under §§ 478.11 and 479.11 singular terms in the regulations must always be read to include the plural form, and vice versa, these changes are necessary to ensure that more than one name, manufacturer, importer, or serial number, if appropriate, is recorded when completing the NFA forms.

5. Importation Forms Update

Minor technical amendments would also be needed in 27 CFR 447.42, 447.45, 478.112, 478.113, 478.114, and 479.112, pertaining to the importation of firearms. Again, due to the new definition and changes to marking regulations, the technical amendments here would make certain words plural (*e.g.,* manufacturer(s), country or countries of manufacture, and serial number(s)) in the regulations as applicable. Although under §§ 478.11 and 479.11 singular terms in the regulations must always be read to include the plural form, and vice versa, these changes are necessary to ensure that more than one name, manufacturer, country, importer, or serial number, if appropriate, is recorded when completing importation forms.

J. Record Retention

This rule also proposes to amend 27 CFR 478.129 to remove language stating that FFL dealers and collectors need only keep A&D Records and ATF Forms 4473 for up to 20 years following the date of sale or disposition of the firearm. The proposed changes would require Federal firearms licensees to retain all records until business or licensed activity is discontinued, either on paper or in an electronic format approved by the Director,[75] at the business or collection premises readily accessible for inspection. There would also be an amendment to 27 CFR 478.50(a) to allow all licensees, including manufacturers and importers, to store paper records and forms with no open disposition entries and with no dispositions recorded within 20 years at a separate warehouse, which would be considered part of the business premises for this purpose and subject to inspection.

In view of advancements in electronic scanning and storage technology, and ATF's acceptance of electronic recordkeeping, these amendments would reverse a 1985 rulemaking allowing non-manufacturer/importer Federal firearms licensees to destroy their records after 20 years.[76] The durability and longevity of firearms means that they are often in circulation for more than 20 years, while the cost of storing firearm transaction records has decreased dramatically through electronic recordkeeping. The proposed amendments would enhance public safety by ensuring that records of active licensees will be available for tracing purposes. ATF has encountered some firearms retailers who have destroyed large numbers of records more than 20 years old so that they would no longer need to be stored physically. This resulted in some traces of firearms involved in crimes to be returned incomplete for lack of records. This provision is also essential if PMFs involved in crime are marked and traced directly to licensed dealers who, unlike licensed manufacturers and importers, are not presently required to maintain permanent records.

III. Statutory and Executive Order Review

A. Executive Orders 12866 and 13563

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic benefits, environmental benefits, public health and safety effects, distributive impacts, and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has determined that while this proposed rule is not economically significant, it is a ''significant regulatory action'' under section 3(f)(4) of Executive Order 12866 because this proposed rule raises novel legal or policy issues arising out of legal mandates. Accordingly, the rule has been reviewed by OMB.

This proposed rule would update the new definition of ''frame or receiver,'' among other items. Table 1 provides a summary of the provisions of this proposed rule, along with the estimated affected population, costs, and benefits.

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS, AND BENEFITS

Category	NPRM
Applicability	• New Definition of Receiver.

[75] ATF previously approved electronic storage of certain records under the conditions set forth in ATF Rulings 2016–1 (Acquisition and Disposition Records) and 2016–2 (ATF Forms 4473).

[76] *See* 50 FR 26702 (June 28, 1985).

TABLE 1—SUMMARY OF AFFECTED POPULATION, COSTS, AND BENEFITS—Continued

Category	NPRM
Affected Population	• Update Marking Requirements. • New Gunsmithing Definition. • Update Record Retention. • Other Technical Amendments. • 113,204 FFLs (Record Retention). • Unknown number of FFLs manufacturers and importers (Definition of Receiver). • 35 Non-FFL manufacturers (Definition of Receiver). • 6,044 FFL retailers (PMFs). • 36 Non-FFL retailers (PMFs). • Unknown number of Individual Owners.
Total Costs to Industry, Public, and Government (7% Discount Rate)	$1.1 million; $149,995 7% annualized.
Benefits (7% Discount Rate)	N/A.
Benefits (Qualitative)	• Provides clarity to courts on what constitutes a firearm frame or receiver. • Applies to new technology. • Makes consistent marking requirements. • Eases certain marking requirements. • Increases tracing of crime scene firearms to prosecute criminals.

1. New Definition of Firearm Frame or Receiver

The proposed definition of this term would maintain current classifications and current marking requirements of firearm frames or receivers, except that the licensed manufacturer or importer must mark on new designs or configurations either: Their name (or recognized abbreviation), and city and State (or recognized abbreviation) where they maintain their place of business; or their name (or recognized abbreviation) and their abbreviated FFL number, on each part defined as a frame or receiver, along with the serial number. To ensure traceability if the parts are separated, there would no longer be an option *only* to mark the FFL's name, city, and state on the slide or barrel. More specifically—

• The proposed definitions would take into account the fact that modern firearms do not house all the components as defined in the current definition. These definitions account for firearms such as split frames or multi-piece firearms;

• The proposed definition would recognize the current classifications of a firearm ''frame or receiver.'' It is intended to encompass the majority, if not all, of existing regulated firearms, and no new marking requirements would be required for these existing designs and configurations;

• After this proposed rule is finalized, markings on new designs or configurations of firearms manufactured or imported may be accomplished by marking each frame or receiver with the licensee's name, city, and state, and serial number, or with the licensee's name and abbreviated license number prefix and number (serial number) in the manner prescribed by existing marking requirements;

• Markings would need to be accomplished within 7 days of completion of the active manufacturing process for the complete weapon (or frame or receiver of such weapon if not being sold as a complete weapon); and

• The proposed rule would require acquisition and disposition record changes to accommodate recording multiple frames or receivers that have different serial numbers if the original frames or receivers (with the same serial number) become separated and are reassembled with frames or receivers bearing different serial numbers.

ATF believes that the majority of the industry currently complies with these requirements, so the cost would be minimal. While the new definitions would mostly affect new designs or configurations of firearms, manufacturers would still be able to receive a determination or a variance on the design from ATF; therefore, they may not experience an additional cost or burden. For more details, please refer to Chapter 2 of the Regulatory Impact Analysis.[77]

2. Partially Complete, Disassembled, or Inoperable Firearm Kits

This section addresses non-FFL manufacturers who manufacture partially complete, disassembled, or inoperable frame or receiver kits, to include both firearm parts kits that allow a person to make only a frame or receiver, and those kits that allow a person to make a complete weapon. When a partially complete frame or receiver parts kit reaches a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state, it would be considered a firearm ''frame or receiver'' that must be marked. Further, under the proposed rule, weapon parts kits with partially complete frames or receivers containing the necessary parts such that they may readily be completed, assembled, converted, or restored to expel a projectile by the action of an explosive would be ''firearms'' for which each frame or receiver of the weapon, as defined under this rule, would need to be marked.

For non-FFL manufacturers of firearm parts kits containing a part defined as a firearm frame or receiver, ATF anticipates there would be a significant impact on these individual companies, but notes that the overall industry impact would also be minimal. Based on current marketing related to the unregulated sale of certain firearm parts kits, ATF anticipates that these non-FFLs would either become FFLs to sell regulated frames or receivers or complete weapons (either as kits or fully assembled), or would take a loss in revenue to sell unregulated items or parts kits that do not contain a frame or receiver (*i.e.,* unregulated raw materials or molds, fire control components, barrels, accessories, tools, jigs, or instructions), but not both. For more details, please refer to Chapter 3 of the Regulatory Impact Analysis.

3. Gunsmithing

The proposed rule would result in a one-time cost for contract gunsmithing, estimated to be $180,849. For more details, please refer to Chapter 4 of the Regulatory Impact Analysis.

[77] The Regulatory Impact Analysis is available on *www.regulations.gov* in the same docket as this rule.

4. Silencers

The proposed rule would require silencers to be marked on any housing or structure, such as an outer tube or modular piece, designed to hold or integrate one or more essential internal components of the device. Currently, the regulations assume that each part defined as a muffler or silencer must be marked and registered.[78] While this proposed change would increase the number of certain parts—firearm muffler or silencer frames or receivers—that need to be marked for modular silencers, this proposed change is not intended to require marking of all silencer parts so long as they are incorporated into a complete device by the original manufacturer or maker that is marked and registered. More specifically, none of the internal nonstructural parts of a complete muffler or silencer device would need to be marked so long as each frame or receiver as defined in this rule is marked. However, as with current regulations, silencer parts sold, shipped, or otherwise disposed of separately would still be considered ''silencers'' that require all markings prior to disposition except when transferred between qualified manufacturers for the production of new devices, and to qualified manufacturers and dealers for the repair of existing devices (see Section II.H.9 of the preamble).

However, the proposed rule would now require some manufacturers of silencers to mark the outer tube rather than the endcap. ATF anticipates only minimal costs associated with moving the serial number and other identifying information from the end cap or adding the same information to the outer tube on certain silencers. Furthermore, there may be a savings for individual owners of silencers. This proposed rule would expressly allow for repairs on silencer devices without having to undergo the additional NFA transfer and registration process, so long as the device is returned to the sender. For more details, please refer to Chapter 5 of the Regulatory Impact Analysis.

5. Privately Made Firearms

A firearm, including a frame or receiver, assembled or otherwise produced by a non-licensee without any markings by a licensee at the time of production or importation is defined as a ''privately made firearm (PMF)'' in the proposed rule. This does not include a firearm identified and registered in the NFRTR pursuant to chapter 53, title 26, United States Code, or any firearm made before October 22, 1968 (unless remanufactured after that date). Under the proposed rule, FFLs would be required to mark PMFs within 7 days of the firearm being received by a licensee, or before disposition, whichever first occurs. Licensees would have 60 days to mark PMFs already in inventory after a final rule becomes effective. FFLs would have the option to mark their existing PMFs themselves. Both FFLs and non-FFLs would have the option to contract with an FFL, such as a gunsmith, for this purpose, dispose of them, or send them to ATF or another law enforcement agency for disposal. The industry cost for this section is $563,340. For more details, please refer to Chapter 6 of the Regulatory Impact Analysis.

6. Record Retention

Currently, licensees other than manufacturers and importers do not have to store their ATF Forms 4473 or A&D records beyond 20 years. This proposed rule would require licensed dealers and collectors to store their Forms 4473 or A&D records indefinitely. The industry cost for this section would be minimal because FFLs could drop off their overflow records to ATF or have ATF ship them directly. The government cost for this provision is $68,939 annually. For more details, please refer to Chapter 7 of the Regulatory Impact Analysis.

7. ATF Form Updates

This proposed rule would modify existing forms and records, such as ATF Forms 4473, NFA forms, importation forms, the Stolen or Lost Firearms Reports, and A&D Records, to help ensure that if more than one manufacturer or serial number is identified on any firearm, those names or serial numbers are recorded. As paper forms run out, FFLs would be able to order forms as part of their normal operations. In other words, FFLs using paper forms requested from ATF are not anticipated to incur any additional cost. For FFLs maintaining transaction records electronically, these FFLs would also only be required to update their software during their next regularly scheduled update. Because software updates occur regularly, and costs are already incorporated for those, ATF does not anticipate any additional costs would be incurred for these changes. There is no cost associated with this section. For more details, please refer to Chapter 8 of the Regulatory Impact Analysis.

8. Total Cost of the Proposed Rule

The total 10-year undiscounted cost of this proposed rule is estimated to be $1.3 million. The total 10-year discounted cost of the rule is $1.0 million and $1.2 million at 7 percent and 3 percent respectively. The annualized cost of this proposed rule would be $147,048 and $135,750, also at 7 percent and 3 percent, respectively.

9. Alternatives

ATF considered various alternatives when preparing this proposed rule. For a more detailed analysis, please refer to Chapters 1 and 10 of the Regulatory Impact Analysis.

a. This Proposed Rule

ATF chose to propose promulgating new definitions of ''frame or receiver,'' ''privately made firearm,'' ''gunsmithing,'' and an update to records retention and new requirements for marking silencers, because they would maximize benefits.

b. Other Considered Alternatives

Alternative 1—No change. While this alternative minimizes cost, it does not meet any of the objectives outlined in this proposed rule.

Alternative 2—Everytown for Gun Safety petition. ATF received a petition for rulemaking from Everytown for Gun Safety, a non-profit organization, proposing to define ''firearm frame or receiver'' in 27 CFR 478.11. That proposed definition focused on housing the ''trigger group''; however, it did not define ''trigger group'' and even if it did, it would not address firearms that do not house trigger components within a single housing, or which have a remote trigger outside the weapon. In other words, this alternative would fall short of addressing all technologies or designs of firearms that are currently available, or may become available in the future. It also does not address potential changes in firearms terminology. Thus, while the alternative requested by that petition would reduce the cost by reducing the number of entities affected, it does not fully address the objectives of this proposed rule.

Alternative 3—Grandfather all existing firearms and receivers. This alternative would grandfather in all existing firearms that would not meet the serialization standard for partially complete and split frames or receivers. This was considered and incorporated into the proposed alternative, where feasible. However, in order to enforce the regulation, a complete grandfathering of existing firearms and silencers is problematic in that manufacturers could continue to

[78] *See* footnote 47, *supra.*

produce non-compliant firearm frames or receivers and falsely market them as grandfathered firearms. This could potentially pose an enforcement issue that may not be resolved for years if not decades.

Alternative 4—Require serialization of all partially complete firearms or split receivers. This would require all firearms purchased by individuals to be retroactively serialized. However, the cost would increase considerably and the GCA only regulates the manufacture of firearms by Federal firearm licensees, not the making of firearms for personal use by private unlicensed individuals.

B. Executive Order 13132

This proposed rule will not have substantial direct effects on the States, the relationship between the Federal Government and the States, or the distribution of power and responsibilities among the various levels of government. This rule is not intended to supersede State requirements unless there is a direct and positive conflict between them such that they cannot be reconciled or consistently stand together.[79] States can require markings on firearms for individuals. This rule does not require individuals to mark their personal firearms. Therefore, in accordance with section 6 of Executive Order 13132 (Federalism), the Attorney General has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

C. Executive Order 12988

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform).

D. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (''RFA''), ATF prepared an Initial Regulatory Flexibility Analysis (''IRFA'') that examines the impacts of the proposed rule on small entities (5 U.S.C. 601 *et seq.*). The IRFA is included here and as part of the RFA. 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 fewer than 50,000 people. 5 U.S.C. 601(6).

Because this proposed rule affects different populations in different ways, the analysis for the IRFA has been broken up by provision. Certain provisions may have a significant impact on certain small entities, such as non-FFL manufactures of firearm parts kits with incomplete firearm frames or receivers. Based on the information from this analysis:

- ATF estimates that this proposed rule could potentially affect 132,023 entities, including all FFLs and non-FFL manufacturers and retailers of firearm parts kits with incomplete firearm frames or receivers, but anticipates that the majority of entities affected by this rule would experience minimal or no additional costs.
- Non-FFL manufacturers are anticipated to be small and would potentially have a significant impact on their individual revenue.
- The second largest impact would be $12,828 if a manufacturer had to retool their existing production equipment, but ATF anticipates this is unlikely because this proposed rule encompasses the majority of existing technology. This would not affect future production because this work would be part of their normal operations in creating new firearms.
- ATF estimates the majority of affected entities are small entities that would experience a range of costs; therefore, this rule may have a significant impact on small entities.

Under the RFA, we are required to consider what, if any, impact this rule would have on small entities. Agencies must perform a review to determine whether a rule will have such an impact. Because the agency has determined that it will, the agency has prepared an initial regulatory flexibility analysis as described in the RFA. Under Section 603(b) of the RFA, the regulatory flexibility analysis must provide or address:

- A description of the reasons why action by the agency is being considered;
- A succinct statement of the objectives of, and legal basis for, the proposed rule;
- A description of, and where feasible, an estimate of the number of small entities to which the proposed rule will apply;
- A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record;
- An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap or conflict with the proposed rule; and
- Descriptions of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the proposed rule on small entities.

1. A Description of the Reasons Why Action by the Agency Is Being Considered

One of the reasons ATF is considering this proposed regulation is the failure of the market to compensate for negative externalities caused by commercial activity. A negative externality can be the by-product of a transaction between two parties that is not accounted for in the transaction.

This proposed rule would update the existing definition of frame or receiver to account for the majority of technological advances in the industry and ensure that these firearms continue to remain under the regulatory regime as intended by the enactment of the GCA, including accounting for manufacturing of firearms using multiple manufacturers. In light of recent court cases, the majority of regulated firearms may not meet the existing definition of firearm frame or receiver. This may result in no part of a firearm being regulated as a ''frame or receiver'' contrary to the requirements in the GCA that ensure tracing to solve crime and help prevent prohibited persons from coming into possession of weapons. Furthermore, finding information in support of criminal cases may be hindered because records are destroyed after 20 years despite the fact that firearms may last longer than 20 years and be used in criminal activities.

This proposed rule would also account for advances in technology in performing transactions such as electronic storage. For more specific details regarding the need for regulation, please refer to the specific chapters pertaining to each provision of this proposed rule.

2. A Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The Attorney General is responsible for enforcing the GCA, as amended, and the NFA, as amended. This responsibility includes the authority to promulgate regulations necessary to enforce the provisions of the GCA and NFA. *See* 18 U.S.C. 926(a); 26 U.S.C. 7801(a)(2)(A); *id.* at 7805(a). Congress and the Attorney General have delegated the responsibility for administering and enforcing the GCA and NFA to the Director of ATF, subject to the direction of the Attorney General and the Deputy Attorney General. *See*

[79] *See* 18 U.S.C. 927.

28 U.S.C. 599A(b)(1); 28 CFR 0.130(a)(1)–(2). Accordingly, the Department and ATF have promulgated regulations implementing both the GCA and the NFA. *See* 27 CFR parts 478, 479.

The proposed rule provides new regulatory definitions of ''firearm frame or receiver'' and ''frame or receiver'' because they are outdated. The proposed rule would also amend ATF's definitions of ''firearm'' and ''gunsmith'' to clarify the meaning of those terms, and to add new regulatory terms such as ''complete weapon,'' ''complete muffler or silencer device,'' ''privately made firearm,'' and ''readily'' for purposes of clarity given advancements in firearms technology. Further, the proposed rule would amend ATF's regulations on marking and recordkeeping that are necessary to implement these new or amended definitions.

3. A Description of, and Where Feasible, an Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

- ATF estimates that this rule could potentially affect 132,023 entities, including all FFLs and non-FFL manufactures and retailers of firearm kits, but anticipates that the majority of entities affected by this rule would experience minimal or no additional costs.
- ATF anticipates the majority of affected entities are small entities and would experience any range of costs; therefore this rule would have a significant impact on a substantial number of small entities.

4. An Identification, to the Extent Practicable, of All Relevant Federal Rules Which May Duplicate, Overlap or Conflict With the Proposed Rule

This proposed rule does not duplicate or conflict with other Federal rules.

5. Descriptions of any Significant Alternatives to the Proposed Rule Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

The significant alternatives considered are set forth in Section IV(A)(9) of this preamble. For more details, please refer to Chapters 1 and 10 of the Regulatory Impact Analysis.

E. Small Business Regulatory Enforcement Fairness Act of 1996

This proposed rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804.

F. Unfunded Mandate Reform Act of 1995

This proposed rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48.

G. Paperwork Reduction Act of 1995

This proposed rule would call for collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–20). As defined in 5 CFR 1320.3(c), ''collection of information'' comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Under the provisions of this proposed rule, there would be a one-time increase in paperwork burdens of identification markings placed on firearms as well as additional transaction records. This requirement would be added to an existing approved collection covered by OMB control number 1140–0050 and 1140–0067.

Title: Identification Markings Placed on Firearms.

OMB Control Number: OMB 1140–0050.

Proposed Use of Information: The Bureau of Alcohol, Tobacco, Firearms, and Explosives would use this information in fighting crime by facilitating the tracing of firearms used in criminal activities. The systematic tracking of firearms from the manufacturer or U.S. importer to the retail purchaser also enables law enforcement agencies to identify suspects involved in criminal violations, determine if a firearm is stolen, and provide other information relevant to a criminal investigation.

Description and Number of Respondents: Currently there are 12,252 licensed manufacturers of firearms and 1,343 licensed importers. Of the potential number of licensed dealers and licensed pawnbrokers, ATF estimates that those directly affected would be a one-time surge of 5,298 licensed dealers, 710 licensed pawnbrokers, and 36 non-licensed dealers that would be affected. This proposed rule would affect a one-time surge of 6,044 respondents.

Frequency of Response: There will be a recurring response for all currently existing 13,595 licensed manufactures and licensed importers. This proposed rule would affect a one-time number of responses of 12,088 responses (6,044 respondents * 2 responses).

Burden of Response: This includes recurring time burden of 1 minute. ATF anticipates a one-time hourly burden of 0.25 hours per respondent.

Estimate of Total Annual Burden: The current burden listed in this collection of information is 85,630 hours. The new burden, as a result of this proposed rulemaking, is a one-time hourly burden of 3,022 (6,044 respondents * 2 responses * 0.25 hourly burden per respondent).

Title: Licensed Firearms Manufactures Records of Production, Disposition, and Supporting Data.

OMB Control Number: OMB 1140–0067.

Proposed Use of Information: The Bureau of Alcohol, Tobacco, Firearms, and Explosives would use this information for criminal investigation or regulatory compliance with the Gun Control Act of 1968. The Attorney General may inspect or examine the inventory and records of a licensed importer, licensed manufacturer, or licensed dealer, without such reasonable cause or warrant, and during the course of a criminal investigation of a person or persons other than the licensee in order to ensure compliance with the recordkeeping requirements of 18 U.S.C. 923(g)(1)(A) and (B). The Attorney General may also inspect or examine any records relating to firearms involved in a criminal investigation that is traced to the licensee, or firearms that may have been disposed of during the course of a bona fide criminal investigation.

Description and Number of Respondents: The current number of respondents is 9,056 firearm manufacturers, but this proposed rule would have a one-time surge for an unknown select few licensed manufacturers.

Frequency of Response: There will be a recurring response for all 9,056 licensed manufacturers, but only a one-time surge of 6,790 responses ((2,649 licensed dealer submissions + 710 license pawnbroker submissions + 36 non-licensed dealers) * 2 firearms or firearm kits) to licensed manufactures.

Burden of Response: This includes recurring time burden of 1.05 minutes. The burden resulting from this proposed

rule is 0.25 hours per set of submittals by licensed dealers and licensed pawnbrokers to licensed manufacturers.

Estimate of Total Annual Burden: The current burden listed in this collection of information is 201,205 hours. The new burden, as a result of this proposed rulemaking, is 1,698 hours (6,790 responses * 0.25 hours).

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), a copy of this proposed rule will be submitted to OMB for its review of the collections of information.

We ask for public comment on the proposed collection of information to help us determine how useful the information is; whether it can help us perform our functions better; whether it is readily available elsewhere; how accurate our estimate of the burden of collection is; how valid our methods for determining burden are; how we can improve the quality, usefulness, and clarity of the information; and how we can minimize the burden of collection.

You need not respond to a collection of information unless it displays a currently valid control number from OMB. Before the requirements for this collection of information becomes effective, we will publish a notice in the **Federal Register** and request additional comments regarding the collection of information prior to OMB's decision to approve, modify, or disapprove the proposed collection.

IV. Public Participation

A. Comments Sought

ATF requests comments on the proposed rule from all interested persons. ATF specifically requests comments on the feasibility of implementing the new definition of firearm ''frame or receiver'' in 27 CFR 478.11 and 27 CFR 479.11, and related definitions and amendments that ensure the proper marking, recordkeeping, and traceability of all firearms manufactured, imported, acquired and disposed by Federal firearms licensees. ATF also requests comments on the costs or benefits of the proposed rule and on the appropriate methodology and data for calculating those costs and benefits.

All comments must reference this document's docket number ATF 2021R–05, be legible, and include the commenter's complete first and last name and full mailing address. ATF may not consider, or respond to, comments that do not meet these requirements or comments containing profanity. ATF will retain all comments as part of this rulemakings administrative record. ATF will treat all comments as originals and will not acknowledge receipt of comments. In addition, if ATF cannot read your comment due to technical difficulties and cannot contact you for clarification, ATF may not be able to consider your comment.

ATF will carefully consider all comments, as appropriate, received on or before the closing date, and will give comments after that date the same consideration if practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

B. Confidentiality

ATF will make all comments meeting the requirements of this section, whether submitted electronically or on paper, available for public viewing at ATF and on the internet through the Federal eRulemaking Portal, and subject to the Freedom of Information Act (5 U.S.C. 552). Commenters who do not want their name or other personal identifying information posted on the internet should submit comments by mail or facsimile, along with a separate cover sheet containing their personal identifying information. Both the cover sheet and comment must reference this docket number (2021R–05). For comments submitted by mail or facsimile, information contained on the cover sheet will not appear when posted on the internet but any personal identifying information that appears within a comment will not be redacted by ATF and it will appear on the internet.

A commenter may submit to ATF information identified as proprietary or confidential business information. The commenter shall place any portion of a comment that is proprietary or confidential business information under law on pages separate from the balance of the comment with each page prominently marked ''PROPRIETARY OR CONFIDENTIAL BUSINESS INFORMATION'' at the top of the page.

ATF will not make proprietary or confidential business information submitted in compliance with these instructions available when disclosing the comments that it received, but will disclose that the commenter provided proprietary or confidential business information that ATF is holding in a separate file to which the public does not have access. If ATF receives a request to examine or copy this information, it will treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). In addition, ATF will disclose such proprietary or confidential business information to the extent required by other legal process.

C. Submitting Comments

Submit comments in any of three ways (but do not submit the same comment multiple times or by more than one method). Hand-delivered comments will not be accepted.

- *Federal eRulemaking Portal:* ATF recommends that you submit your comments to ATF via the Federal eRulemaking portal at *www.regulations.gov* and follow the instructions. Comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that is provided after you have successfully uploaded your comment.
- *Mail:* Send written comments to the address listed in the **ADDRESSES** section of this document. Written comments must appear in minimum 12-point font size (.17 inches), include the commenter's first and last name and full mailing address, be signed, and may be of any length.
- *Facsimile:* Submit comments by facsimile transmission to (202) 648–9741. Faxed comments must:

1. Be legible and appear in minimum 12 point font size (.17 inches);
2. Be 8½″ x 11″ paper;
3. Be signed and contain the commenter's complete first and last name and full mailing address; and
4. Be no more than five pages long.

D. Request for Hearing

Any interested person who desires an opportunity to comment orally at a public hearing should submit his or her request, in writing, to the Director of ATF within the 90-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing is necessary.

Disclosure

Copies of this proposed rule and the comments received in response to it will be available through the Federal eRulemaking portal, at *www.regulations.gov* (search for ATF 2021R–05), and for public inspection by appointment during normal business hours at: ATF Reading Room, Room 1E–063, 99 New York Ave. NE, Washington, DC 20226; telephone: (202) 648–8740.

List of Subjects

27 CFR Part 447

Administrative practice and procedure, Arms control, Arms and

munitions, Authority delegation, Chemicals, Customs duties and inspection, Imports, Penalties, Reporting and recordkeeping requirements, Scientific equipment, Seizures and forfeitures.

27 CFR Part 478

Administrative practice and procedure, Arms and munitions, Exports, Freight, Imports, Intergovernmental relations, Law enforcement officers, Military personnel, Penalties, Reporting and recordkeeping requirements, Research, Seizures and forfeitures, Transportation.

27 CFR Part 479

Administrative practice and procedure, Arms and munitions, Excise taxes, Exports, Imports, Military personnel, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Transportation.

Authority and Issuance

For the reasons discussed in the preamble, 27 CFR parts 447, 478, and 479 are proposed to be amended as follows:

PART 447—IMPORTATION OF ARMS, AMMUNITION AND IMPLEMENTS OF WAR

■ 1. The authority citation for 27 CFR part 447 continues to read as follows:

Authority: 22 U.S.C. 2778; Exec. Order 13637, 78 FR 16129 (Mar. 8, 2013).

§ 447.42 [Amended]

■ 2. Amend § 447.42 as follows:
■ a. In paragraph (a)(1)(ii), remove the word ''country'' and add in its place the term ''country or countries'';
■ b. In paragraph (a)(1)(iv)(A), remove ''manufacturer'' and add in its place ''manufacturer(s) of the firearm or privately made firearm (if privately made in the United States)''; and
■ c. In paragraph (a)(1)(iv)(G), remove ''serial number'' and add in its place ''serial number(s)''.

§ 447.45 [Amended]

■ 3. Amend § 447.45 as follows:
■ a. In paragraph (a)(2)(ii), remove ''manufacturer of the defense article'' and add in its place ''manufacturer(s) of the defense article or privately made firearm (if privately made in the United States)'';
■ b. In paragraph (a)(2)(iii), remove the word ''country'' and add in its place the term ''country or countries''; and
■ c. In paragraph (a)(2)(vii), remove ''serial number'' and add in its place ''serial number(s)''.

PART 478—COMMERCE IN FIREARMS AND AMMUNITION

■ 4. The authority citation for 27 CFR part 478 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 921–931; 44 U.S.C. 3504(h).

■ 5. In § 478.11:
■ a. Add, in alphabetical order, definitions for ''Complete muffler or silencer device'' and ''Complete weapon'';
■ b. Revise the definition of ''Engaged in the business'' paragraph (d) ''Gunsmith'' and the definition of ''Firearm'';
■ c. Remove the definition of ''Firearm frame or receiver''; and
■ d. Add, in alphabetical order, definitions for ''Frame or receiver'', ''Importer or manufacturer's serial number'', ''Privately made firearm (PMF)'', and ''Readily''.

The additions and revisions read as follows:

§ 478.11 Meaning of terms.

* * * * *

Complete muffler or silencer device. A firearm muffler or firearm silencer that contains all component parts necessary to function as designed whether or not assembled or operable.

Complete weapon. A firearm other than a firearm muffler or firearm silencer that contains all component parts necessary to function as designed whether or not assembled or operable.

* * * * *

Engaged in the business— * * *

(d) Gunsmith. A person who, as a service performed on existing firearms not for sale or distribution by a licensee, devotes time, attention, and labor to repairing or customizing firearms, making or fitting special barrels, stocks, or trigger mechanisms to firearms, or identifying firearms in accordance with this chapter, as a regular course of trade or business with the principal objective of livelihood or profit, but such term shall not include a person who occasionally repairs or customizes firearms, or occasionally makes or fits special barrels, stocks, or trigger mechanisms to firearms;

* * * * *

Firearm. Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device; but the term shall not include an antique firearm. In the case of a licensed collector, the term shall mean only curios and relics. The term shall include a weapon parts kit that is designed to or may readily be assembled, completed, converted, or restored to expel a projectile by the action of an explosive. The term shall not include a weapon, including a weapon parts kit, in which each part defined as a frame or receiver of such weapon is destroyed.

* * * * *

Frame or receiver. A part of a firearm that, when the complete weapon is assembled, is visible from the exterior and provides housing or a structure designed to hold or integrate one or more fire control components, even if pins or other attachments are required to connect those components to the housing or structure. Any such part identified with a serial number shall be presumed, absent an official determination by the Director or other reliable evidence to the contrary, to be a frame or receiver. For purposes of this definition, the term ''fire control component'' means a component necessary for the firearm to initiate, complete, or continue the firing sequence, including any of the following: Hammer, bolt, bolt carrier, breechblock, cylinder, trigger mechanism, firing pin, striker, or slide rails. The following are nonexclusive examples that illustrate this definition:

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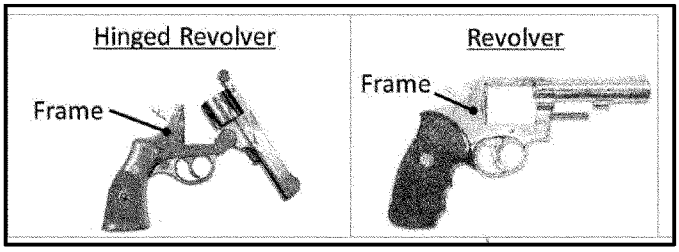
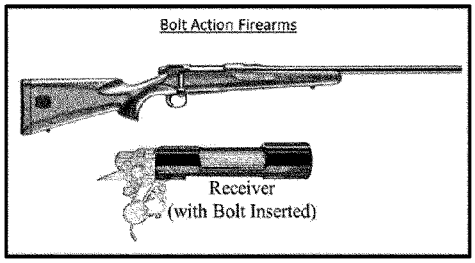
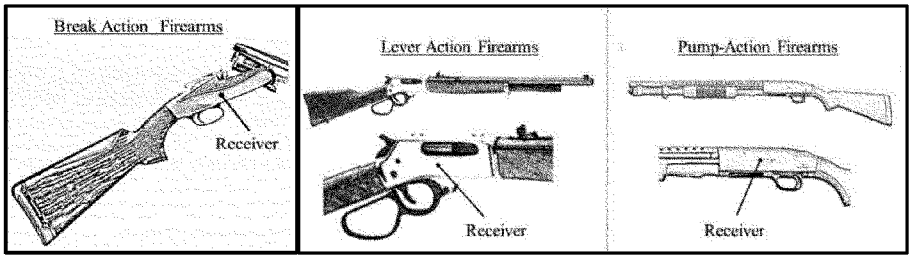
Example 1 – Hinged or single framed revolver: The frame or receiver is the part of the revolver that provides a structure designed to hold the trigger, hammer, and cylinder.



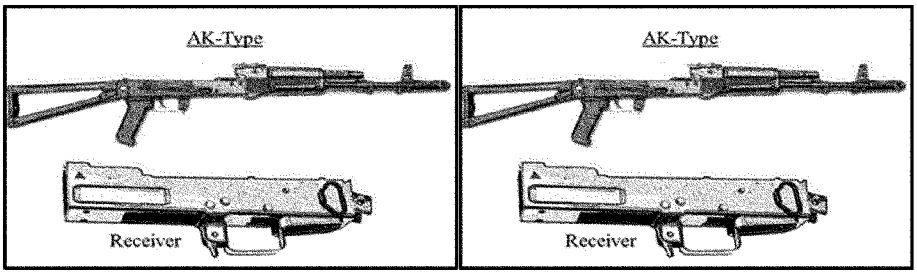
Example 2 – Bolt action rifle: The frame or receiver is the part of the rifle that provides a structure designed to hold the bolt, firing pin, and trigger mechanism.



Example 3 – Break action, lever action, or pump action rifle or shotgun: The frame or receiver is the part of the rifle or shotgun that provides housing for the bolt and firing pin, or a structure designed to integrate the breechblock.



Example 4 - Semiautomatic firearm or machinegun with a single receiver housing all fire control components: The frame or receiver is the part of the firearm that provides housing for the hammer, bolt, trigger mechanism, and firing pin (*e.g.*, AK-type firearms).



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(a) *Firearm muffler or silencer frame or receiver.* The term ''frame or receiver'' shall mean, in the case of a firearm muffler or firearm silencer, a part of the firearm that, when the complete device is assembled, is visible from the exterior and provides housing or a structure, such as an outer tube or modular piece, designed to hold or integrate one or more essential internal components of the device, including any of the following: Baffles, baffling material, or expansion chamber.

(b) *Split or modular frame or receiver.* (1) In the case of a firearm with more than one part that provides housing or a structure designed to hold or integrate one or more fire control or essential internal components (*e.g.,* a split frame with upper assembly and lower assembly as in many semiautomatic rifles, upper slide assembly and lower grip module as in many semiautomatic handguns, or multiple silencer modular pieces), the Director may determine whether a specific part or parts of a weapon is the frame or receiver, which may include an internal frame or chassis at least partially exposed to the exterior to allow identification. In making this determination, the Director will consider the following factors, with no single factor being controlling:

(i) Which component the manufacturer intended to be the frame or receiver;

(ii) Which component the firearms industry commonly considers to be the frame or receiver with respect to the same or similar firearms;

(iii) How the component fits within the overall design of the firearm when assembled;

(iv) The design and function of the fire control components to be housed or integrated;

(v) Whether the component may permanently, conspicuously, and legibly be identified with a serial number and other markings in a manner not susceptible of being readily obliterated, altered, or removed;

(vi) Whether classifying the particular component is consistent with the legislative intent of the Act and this part; and

(vii) Whether classifying the component as the frame or receiver is consistent with ATF's prior classifications.

(2) Frames or receivers of different weapons that are combined to create a similar weapon each retain their respective classifications as frames or receivers provided they retain their original design and configuration.

(3) The Director has previously determined that a specific part is the frame or receiver with respect to certain weapons with split or modular frames or receivers. The following is a nonexclusive list of such weapons and the specific part identified as the frame or receiver as they existed on [date of publication of the final rule]:

(i) *Colt 1911-type, Beretta/Browning/FN Herstal/Heckler & Koch/Ruger/Sig Sauer/Smith & Wesson/Taurus hammer fired semiautomatic pistols:* The lower portion of the pistol, or grip, that provides housing for the trigger mechanism and hammer, and a structure designed to integrate the slide rails.

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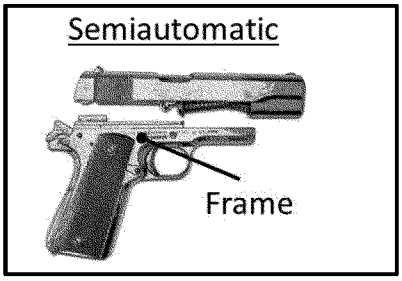
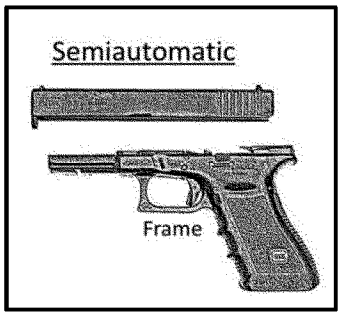
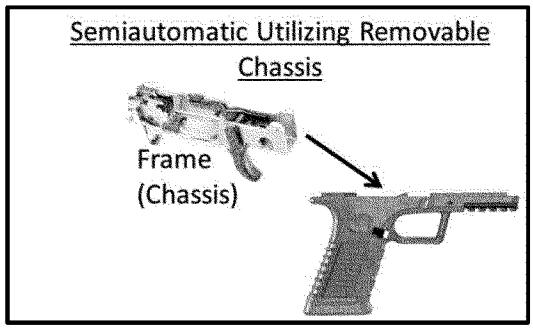


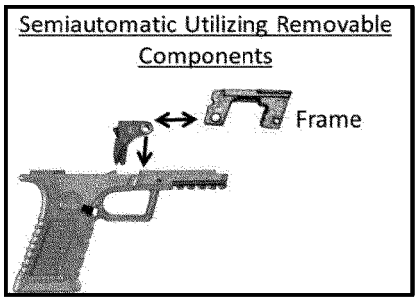
(ii) *Glock-type striker-fired semiautomatic pistols:* the lower portion of the pistol, or grip, that provides housing for the trigger mechanism, and a structure designed to integrate the slide rails.



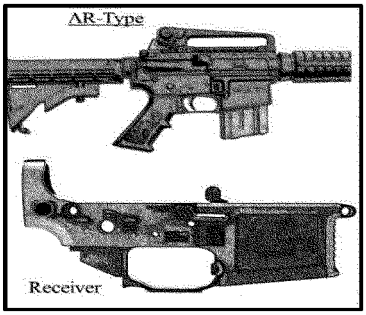
(iii) *Sig Sauer P320-type semiautomatic pistols:* the internal removable chassis of the pistol, partially exposed to the exterior to allow identification, that provides housing for the trigger mechanism, and a structure designed to integrate the slide rails.



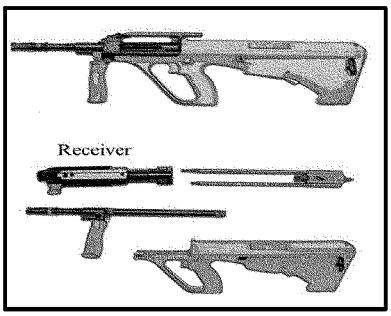
(iv) *Certain locking block rail system semiautomatic pistols:* the internal removable frame of the pistol that provides housing for the trigger mechanism, and a structure designed to integrate the slide rails, provided a portion is partially exposed to the exterior to allow identification.



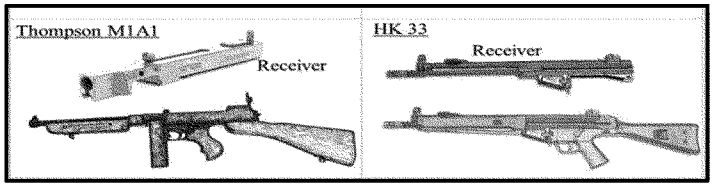
(v) *AR-15-type, and Beretta AR-70-type firearms:* the lower part of the weapon that provides housing for the trigger mechanism and hammer.

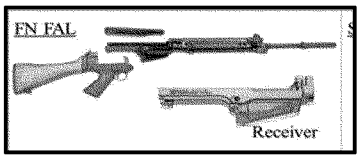


(vi) *Steyr AUG-type firearms:* the central part of the weapon that provides housing for the rods in the bolt carrier sub-assembly and a structure designed to attach the barrel.

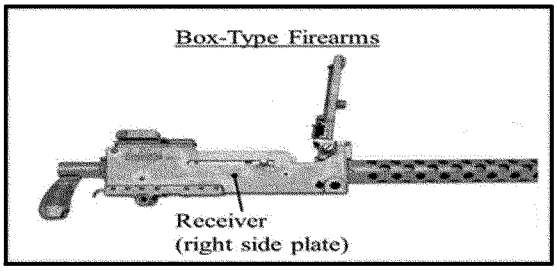


(vii) *Thompson M1A1-type machineguns and semiautomatic variants, and L1A1, FN FAL, FN FNC, MP38, MP 40, and SIG 550-type firearms, and HK-type machineguns and semiautomatic variants:* the upper part of the weapon that provides housing for the bolt and firing pin.

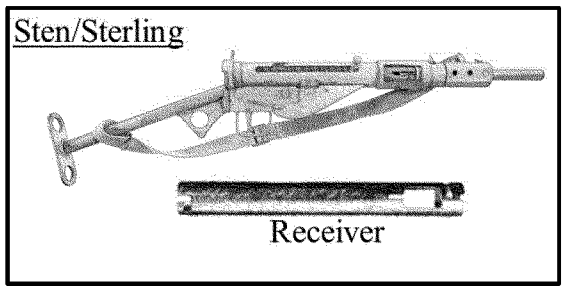




(viii) *Vickers/Maxim, Browning 1919, and M2-type machineguns, and box-type machineguns and semiautomatic variants thereof:* the side plate of the weapon that provides a structure designed to hold the charging handle.



(ix) *Sten, Sterling, and Kel-Tec SUB-2000-type firearms:* the central part of the weapon, or tube, that provides housing for the bolt and firing pin.



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(c) *Partially complete, disassembled, or inoperable frame or receiver.* The term ''frame or receiver'' shall include, in the case of a frame or receiver that is partially complete, disassembled, or inoperable, a frame or receiver that has reached a stage in manufacture where it may readily be completed, assembled, converted, or restored to a functional state. In determining whether a partially complete, disassembled, or inoperable frame or receiver may readily be assembled, completed, converted, or restored to a functional state, the Director may consider any available instructions, guides, templates, jigs, equipment, tools, or marketing materials. For purposes of this definition, the term ''partially complete,'' as it modifies ''frame or receiver,'' means a forging, casting, printing, extrusion, machined body or similar article that has reached a stage in manufacture where it is clearly identifiable as an unfinished component part of a weapon.

(d) *Destroyed frame or receiver.* The term ''frame or receiver'' shall not include a frame or receiver that is destroyed. For purposes of this definition, the term ''destroyed'' means that the frame or receiver has been permanently altered not to provide housing or a structure that may hold or integrate any fire control or essential internal component, and may not readily be assembled, completed, converted, or restored to a functional state. Acceptable methods of destruction include completely melting, crushing, or shredding the frame or receiver, or by completely severing at least three critical areas of the frame or receiver using a cutting torch having a tip of sufficient size to displace at least ¼ inch of material at each location.

* * * * *

Importer's or manufacturer's serial number. The identification number, licensee name, licensee city or state, or license number placed by a licensee on a firearm frame or receiver in accordance with this part. The term shall include any such identification on a privately made firearm, or an ATF issued serial number. When used in this part, the term ''serial number'' shall mean the ''importer's or manufacturer's serial number.''

* * * * *

Privately made firearm (PMF). A firearm, including a frame or receiver, assembled or otherwise produced by a person other than a licensed manufacturer, and without a serial number or other identifying markings

placed by a licensed manufacturer at the time the firearm was produced. The term shall not include a firearm identified and registered in the National Firearms Registration and Transfer Record pursuant to chapter 53, title 26, United States Code, or any firearm made before October 22, 1968 (unless remanufactured after that date).

* * * * *

Readily. A process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process. Factors relevant in making this determination, with no single one controlling, include the following:

(a) Time, *i.e.,* how long it takes to finish the process;

(b) Ease, *i.e.,* how difficult it is to do so;

(c) Expertise, *i.e.,* what knowledge and skills are required;

(d) Equipment, *i.e.,* what tools are required;

(e) Availability, *i.e.,* whether additional parts are required, and how easily they can be obtained;

(f) Expense, *i.e.,* how much it costs;

(g) Scope, *i.e.,* the extent to which the subject of the process must be changed to finish it; and

(h) Feasibility, *i.e.,* whether the process would damage or destroy the subject of the process, or cause it to malfunction.

* * * * *

§ 478.50 [Amended]

■ 6. In § 478.50(a), add the phrase ''or as otherwise provided in § 478.129'' after ''at the licensed premises served by such warehouse''.

■ 7. Revise § 478.92 to read as follows:

§ 478.92 Identification of firearms and armor piercing ammunition.

(a)(1) *Firearms manufactured or imported by licensees.* Licensed manufacturers and licensed importers of firearms must legibly identify each firearm they manufacture or import as follows:

(i) *Serial number, name, place of business.* By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or otherwise placed on each part (or specific part(s) previously determined by the Director) defined as a frame or receiver thereof, a serial number, in a manner not susceptible of being readily obliterated, altered, or removed. The serial number identified on each part of a weapon defined as a frame or receiver must be the same number, but must not duplicate any serial number(s) placed by the licensee on any other firearm. Except as provided in paragraph (a)(4)(v) of this section, each frame or receiver thereof must also be marked with either: Their name (or recognized abbreviation), and city and State (or recognized abbreviation) where they maintain their place of business; or their name (or recognized abbreviation) and abbreviated Federal firearms license number as a prefix, which is the first three and last five digits, followed by a hyphen, and then followed by a number as a suffix, *e.g.,* ''12345678–[number]''; and

(ii) *Model, caliber or gauge, foreign manufacturer, country of manufacture.* By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on each part (or specific part(s) previously determined by the Director) defined as a frame or receiver, or barrel or pistol slide (if applicable) thereof certain additional information. This information must be placed in a manner not susceptible of being readily obliterated, altered, or removed. Except as provided in paragraph (a)(4)(v) of this section, the additional information shall include:

(A) The model, if such designation has been made;

(B) The caliber or gauge;

(C) When applicable, the name of the foreign manufacturer; and

(D) In the case of an imported firearm, the name of the country in which it was manufactured. For additional requirements relating to imported firearms, see Customs regulations at 19 CFR part 134.

(iii) *Frame or receiver, machinegun conversion part, or muffler or silencer part disposed of separately.* Except as provided in paragraph (a)(4)(iv) of this section, each part defined as a frame or receiver, machinegun, or firearm muffler or firearm silencer that is not a component part of a complete weapon or device at the time it is sold, shipped, or otherwise disposed of by the licensee must be identified as required by this section with a serial number not duplicated on any other firearm and all additional identifying information, except that the model designation and caliber or gauge may be omitted if that information is unknown at the time the part is identified.

(iv) *Size and depth of markings.* The engraving, casting, or stamping (impressing) of the serial number and additional information must be to a minimum depth of .003 inch and in a print size no smaller than 1/16 inch. The size of serial numbers required by this section is measured as the distance between the latitudinal ends of the character impression bottoms (bases). The depth of all markings required by this section is measured from the flat surface of the metal and not the peaks or ridges.

(v) *Period of time to identify firearms.* Licensed manufacturers must identify a complete weapon or complete muffler or silencer device no later than seven days following the date of completion of the active manufacturing process for the weapon or device, or prior to disposition, whichever is sooner. Except as provided in paragraph (a)(4)(iv) of this section, licensed manufacturers must identify each part, including a replacement part, defined as a frame or receiver, machinegun, or firearm muffler or firearm silencer that is not a component part of a complete weapon or device at the time it is sold, shipped, or otherwise disposed of no later than seven days following the date of completion of the active manufacturing process for the part, or prior to disposition, whichever is sooner. For purposes of this paragraph, firearms actively awaiting materials, parts, or equipment repair to be completed are actively in the manufacturing process. Licensed importers must identify imported firearms within the period prescribed in § 478.112.

(2) *Privately made firearms.* Unless previously identified by another licensee in accordance with this section, and except as provided in paragraph (a)(4)(vi) of this section, licensees must legibly and conspicuously identify each privately made firearm within seven days following the date of receipt or other acquisition (including from a personal collection), or before the date of disposition (including to a personal collection), whichever is sooner. PMFs must be identified by placing on each part (or specific part(s) previously determined by the Director) of a weapon defined as a frame or receiver, the same serial number, but must not duplicate any serial number(s) placed by the licensee on any other firearm. The serial number(s) must begin with the licensee's abbreviated Federal firearms license number as a prefix, which is the first three and last five digits, followed by a hyphen, and then followed by a number as a suffix, *e.g.,* ''12345678–[number]''. The serial number(s) must be placed in a manner otherwise in accordance with this section, including the requirements that the serial number(s) be at the minimum size and depth, and not susceptible of being readily obliterated, altered, or removed.

(3) *Meaning of marking terms.* For purposes of this section, the terms ''legible'' and ''legibly'' mean that the identification markings use exclusively

Roman letters (*e.g.,* A, a, B, b, C, c) and Arabic numerals (*e.g.,* 1, 2, 3), or solely Arabic numerals, and may include a hyphen, and the terms ''conspicuous'' and ''conspicuously'' mean that the identification markings are capable of being easily seen with normal handling of the firearm and unobstructed by other markings when the complete weapon is assembled.

(4) *Exceptions*—(i) *Alternate means or period of identification.* The Director may authorize other means of identification or period of time to identify firearms upon receipt of a letter application or Form 3311.4 from the licensee showing that such other identification or period is reasonable and will not hinder the effective administration of this part.

(ii) *Destructive devices.* In the case of a destructive device, the Director may authorize other means of identification or period of time to identify that weapon upon receipt of a letter application or Form 3311.4 from the licensee. The application shall show that engraving, casting, or stamping (impressing) such a weapon as required by this section would be dangerous or impracticable, or that the requested period is reasonable and will not hinder the effective administration of this part.

(iii) *Adoption of identifying markings.* Licensed manufacturers and licensed importers may adopt the serial number(s) or other identifying markings previously placed on a firearm in accordance with this section provided that, within the period and in the manner herein prescribed, the licensee legibly and conspicuously places, or causes to be placed, on each part (or specific part(s) previously determined by the Director) defined as a frame or receiver either: Their name (or recognized abbreviation), and city and State (or recognized abbreviation) where they maintain their place of business; or their name (or recognized abbreviation) and abbreviated Federal firearms license number, which is the first three and last five digits, followed by a hyphen, and then followed by the existing serial number (including any other abbreviated FFL prefix) as a suffix, *e.g.,* ''12345678–[serial number]''.

(iv) *Firearm muffler or silencer parts*—(A) *Firearm muffler or silencer parts transferred between qualified manufacturers to complete new devices.* A licensed manufacturer qualified under part 479 may transfer a part defined as a firearm muffler or firearm silencer to another qualified manufacturer without immediately identifying or registering such part provided that, upon receipt, it is actively used to manufacture a complete muffler or silencer device. Once the new device with such part is completed, the manufacturer of the device shall identify and register it in the manner and within the period specified in this part for a complete muffler or silencer device.

(B) *Firearm muffler or silencer replacement parts transferred to qualified manufacturers or dealers to repair existing devices.* A licensed manufacturer qualified under part 479 may transfer a replacement part defined as a firearm muffler or firearm silencer other than a frame or receiver to a qualified manufacturer or dealer without identifying or registering such part provided that, upon receipt, it is actively used to repair a complete muffler or silencer device that was previously identified and registered in accordance with this part.

(v) *Firearms designed and configured before [EFFECTIVE DATE OF THE FINAL RULE].* Licensed manufacturers and licensed importers may continue to identify firearms (other than PMFs) of the same design and configuration as they existed before [EFFECTIVE DATE OF THE FINAL RULE] with the information required to be marked by paragraphs (a)(1)(i) and (ii) of this section that were in effect prior to that date, and any rules necessary to ensure such identification shall remain effective for that purpose.

(vi) *Privately made firearms acquired before [EFFECTIVE DATE OF THE FINAL RULE].* Licensees shall identify in the manner prescribed by this section, or cause another licensee to so identify, each privately made firearm received or otherwise acquired (including from a personal collection) by the licensee before [EFFECTIVE DATE OF THE FINAL RULE] within sixty (60) days from that date, or prior to the date of final disposition (including to a personal collection), whichever is sooner.

(b) *Armor piercing ammunition.* (1) Marking of ammunition. Each licensed manufacturer or licensed importer of armor piercing ammunition shall identify such ammunition by means of painting, staining or dying the exterior of the projectile with an opaque black coloring. This coloring must completely cover the point of the projectile and at least 50 percent of that portion of the projectile which is visible when the projectile is loaded into a cartridge case.

(2) *Labeling of packages.* Each licensed manufacturer or licensed importer of armor piercing ammunition shall clearly and conspicuously label each package in which armor piercing ammunition is contained, *e.g.,* each box, carton, case, or other container. The label shall include the words ''ARMOR PIERCING'' in block letters at least ¼ inch in height. The lettering shall be located on the exterior surface of the package which contains information concerning the caliber or gauge of the ammunition. There shall also be placed on the same surface of the package in block lettering at least ⅛ inch in height the words ''FOR GOVERNMENTAL ENTITIES OR EXPORTATION ONLY.'' The statements required by this subparagraph shall be on a contrasting background.

(c) *Voluntary classification of firearms and armor piercing ammunition.* The Director may issue a determination to a person whether an item is a firearm or armor piercing ammunition as defined in this part upon receipt of a written request or form prescribed by the Director. Each such voluntary request or form submitted shall be executed under the penalties of perjury with a complete and accurate description of the item, the name and address of the manufacturer or importer thereof, and a sample of such item for examination along with any instructions, guides, templates, jigs, equipment, tools, or marketing materials that are made available to the purchaser or recipient of the item. The Director shall not issue a determination regarding a firearm accessory or attachment unless it is installed on the firearm(s) in the configuration for which it is designed and intended to be used. Upon completion of the examination, the Director may return the sample to the person who made the request unless a determination is made that return of the sample would be or place the person in violation of law. A determination made by the Director under this paragraph shall not be deemed by any person to be applicable to or authoritative with respect to any other sample, design, model, or configuration.

§ 478.112 [Amended]

■ 8. Amend § 478.112 as follows:

■ a. In paragraph (b)(1)(iv)(A), remove ''manufacturer'' and add in its place ''manufacturer(s) of the firearm or privately made firearm (if privately made in the United States)''; and

■ b. In paragraph (b)(1)(iv)(G), remove ''serial number'' and add in its place ''serial number(s)''.

§ 478.113 [Amended]

■ 9. Amend § 478.113 as follows:

■ a. In paragraph (b)(1)(iv)(A), remove the word ''manufacturer'' and add in its place ''manufacturer(s) of the firearm or privately made firearm (if privately made in the United States)'';

■ b. In paragraph (b)(1)(iv)(G), remove the words ''serial number'' and add in

their place the words ''serial number(s)'';

■ c. In paragraph (c)(2)(ii), remove the word ''manufacturer'' and add in its place the word ''manufacturer(s)'';

■ d. In paragraph (c)(2)(iii), remove ''country of manufacturer'' and add in its place ''country or countries of manufacturer(s) of the firearm or privately made firearm (if privately made in the United States)''; and

■ e. In paragraph (c)(2)(vii), remove the words ''serial number'' and add in their place ''serial number(s)''.

§ 478.114 [Amended]

■ 10. Amend § 478.114 as follows:

■ a. In paragraph (a)(1)(v)(A), remove the word ''manufacturer'' and add in its place ''manufacturer(s) of the firearm or privately made firearm (if privately made in the United States)'';

■ b. In paragraph (a)(1)(v)(G), remove the words ''serial number'' and add in their place ''serial number(s)''; and

■ c. In paragraph (b)(2)(ii), add ''or privately made firearm (if privately made in the United States)'' after ''ammunition''.

■ 11. Revise § 478.122 to read as follows:

§ 478.122 Records maintained by importers.

(a) Each licensed importer shall record the name of the importer(s), manufacturer(s) and/or privately made firearm (if privately made in the United States), type, model, caliber or gauge, country or countries of manufacture (if imported), and serial number(s) of each firearm imported or otherwise acquired (including a frame or receiver to be disposed of separately), the date of such importation or other acquisition, and if otherwise acquired, the name and address, or the name and license number of the person from whom it was received. The information required by this paragraph shall be recorded not later than 15 days following the date of importation or other acquisition in a format with the applicable columns set forth in paragraph (b) of this section.

(b) A record of each firearm disposed of by an importer and a separate record of armor piercing ammunition dispositions to governmental entities, for exportation, or for testing or experimentation authorized under the provision of § 478.149, shall be maintained by the licensed importer on the licensed premises. The record shall show the date of such sale or other disposition, and the name and license number of the licensee to whom the firearm was transferred, or if disposed to a nonlicensee, the name and address of the person, or the serial number of the firearms transaction record, Form 4473, if the licensee transferring the firearm serially numbers the Forms 4473 and files them numerically. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction. In the event the licensee records a duplicate entry with the same firearm and acquisition information, whether to close out an old record book or for any other reason, the licensee shall record a reference to the date and location of the subsequent entry (*e.g.,* date of new entry, book name/number, page number, and line number) as the disposition. Such information shall be recorded in a format containing the applicable columns below, except that for armor piercing ammunition, the information and format shall also include the quantity of projectiles:

IMPORTER'S OR MANUFACTURER'S FIREARMS ACQUISITION AND DISPOSITION RECORD

Description of firearm						Import/manufacture/acquisition		Disposition		
Importer(s), manufacturer(s), and/or PMF (if privately made in the U.S.)	Type	Model	Caliber or gauge	Country or countries of manufacture (if imported)	Serial number(s)	Date of import, manufacture, or acquisition	Name and address of nonlicensee; or if licensee, name and license No. (if acquired)	Date of disposition	Name	Address of nonlicensee; license No. of licensee; or Form 4473 Serial No. if filed numerically

IMPORTER'S OR MANUFACTURER'S ARMOR PIERCING AMMUNITION DISPOSITION RECORD

Date of disposition	Manufacturer	Caliber or gauge	Quantity of projectiles	Purchaser—name and address

(c) The Director may authorize alternate records to be maintained by a licensed importer to record the acquisition and disposition of firearms and armor piercing ammunition when it is shown by the licensed importer that such alternate records will accurately and readily disclose the information required by this section. A licensed importer who proposes to use alternate records shall submit a letter application to the Director and shall describe the proposed alternate records and the need therefor. Such alternate records shall not be employed by the licensed importer until approval in such regard is received from the Director.

■ 12. Revise § 478.123 to read as follows:

§ 478.123 Records maintained by manufacturers.

(a) Each licensed manufacturer shall record the name of the manufacturer(s), importer(s) (if any) and/or privately made firearm (if privately made in the United States), type, model, caliber or gauge, and serial number(s) of each firearm manufactured or otherwise acquired (including a frame or receiver to be disposed of separately), the date of such manufacture or other acquisition, and if otherwise acquired, the name and address or the name and license number of the person from whom it was received. The information required by this paragraph shall be recorded not later than the close of the next business day following the date of such manufacture or other acquisition, except that, when a commercial record is held by the licensed manufacturer separately from other commercial documents and readily available for inspection, containing all acquisition information required for the record, the period for making the required entry into the record may be delayed not to exceed the seventh day following the date of receipt. The information required by this paragraph shall be recorded in a format containing the applicable columns prescribed by § 478.122.

(b) A record of each firearm disposed of by a manufacturer and a separate record of armor piercing ammunition dispositions to governmental entities, for exportation, or for testing or experimentation authorized under the provision of § 478.149, shall be maintained by the licensed manufacturer on the licensed premises. The record shall show the date of such sale or other disposition, and the name and license number of the licensee to whom the firearms were transferred, or if disposed to a nonlicensee, the name and address of the person, or the serial number of the firearms transaction record, Form 4473, if the licensee transferring the firearm serially numbers the Forms 4473 and files them numerically. The information required by this paragraph shall be entered in the proper record book not later than the seventh day following the date of the transaction. In the event the licensee records a duplicate entry with the same firearm and acquisition information, whether to close out an old record book or for any other reason, the licensee shall record a reference to the date and location of the subsequent entry (*e.g.,* date of new entry, book name/number, page number, and line number) as the disposition. Such information shall be recorded in a format containing the applicable columns prescribed by § 478.122, except that for armor piercing ammunition, the information and format shall also include the quantity of projectiles.

(c) The Director may authorize alternate records to be maintained by a licensed manufacturer to record the acquisition or disposition of firearms and armor piercing ammunition when it is shown by the licensed manufacturer that such alternate records will accurately and readily disclose the information required by this section. A licensed manufacturer who proposes to use alternate records shall submit a letter application to the Director and shall describe the proposed alternate record and the need therefor. Such alternate records shall not be employed by the licensed manufacturer until approval in such regard is received from the Director.

§ 478.124 [Amended]

■ 13. Amend § 478.124 as follows:

■ a. In paragraph (c)(4), remove ''manufacturer'' and add in its place ''manufacturer(s)'', remove the words ''importer (if any)'' and add in their place ''importer(s) (if any) of the firearm or privately made firearm (if privately made in the United States)'', and remove the words ''serial number'' and add in their place ''serial number(s)''; and

■ b. In the fourth sentence of paragraph (f), remove ''Upon receipt of such Forms 4473, the'' and add in its place ''The'', remove ''manufacturer'' and add in its place ''manufacturer(s)'', remove the words ''importer (if any)'' and add in their place ''importer(s) (if any) of the firearm or privately made firearm (if privately made in the United States)'', and remove the words ''serial number'' and add in their place ''serial number(s)''.

■ 14. Amend § 478.125 as follows:

■ a. In paragraph (e):

■ i. Remove ''manufacturer'' and add in its place ''manufacturer(s)'', remove the words ''importer (if any)'' and add in their place ''importer(s) (if any) of the firearm or privately made firearm (if privately made in the United States)'', remove the words ''serial number'', wherever they appear, and add in their place ''serial number(s)'', and remove ''as provided in paragraph (g)'' and add in its place ''as provided in paragraphs (g) and (i)'';

■ ii. Add a sentence after the sixth sentence; and

■ iii. In the table Firearms Acquisition and Disposition Record remove ''Name and address or name and license No.'' and add in its place ''Name and address of nonlicensee; or if licensee, name and License No.'', and remove ''Address or License No. if licensee, or Form 4473 Serial No. if Forms 4473 filed numerically'' and add in its place ''Address of nonlicensee; License No. of licensee; or Form 4473 Serial No. if such forms filed numerically'';

■ b. In paragraph (f)(1):

■ i. Remove ''manufacturer'' and add in its place ''manufacturer(s)'', remove the words ''importer (if any)'' and add in their place ''importer(s) (if any) of the firearm or privately made firearm (if privately made in the United States)'', remove the words ''serial number'' and add in their place ''serial number(s)''; and

■ ii. Add a sentence after the fifth sentence;

■ c. In paragraph (f)(2) table Firearms Collectors Acquisition and Disposition Record, remove ''Manufacturer'' and add in its place ''Manufacturer(s)'', remove the words ''importer (if any)'' and add in their place ''importer(s) (if any) of the firearm or privately made firearm (if privately made in the United States)'', and remove the words ''Serial No.'' and add in their place ''Serial number(s)''; and

■ d. Add paragraph (j).

The additions read as follows:

§ 478.125 Record of receipt and disposition.

* * * * *

(e) * * * In the event the licensee records a duplicate entry with the same firearm and acquisition information, whether to close out an old record book or for any other reason, the licensee shall record a reference to the date and location of the subsequent entry (*e.g.,* date of new entry, book name/number, page number, and line number) as the disposition.* * *

* * * * *

(f) * * *

(1) * * * In the event the licensee records a duplicate entry with the same firearm and acquisition information, whether to close out an old record book or for any other reason, the licensee shall record a reference to the date and location of the subsequent entry (*e.g.,* date of new entry, book name/number, page number, and line number) as the disposition.* * *

* * * * *

(j) *Privately made firearms.* Licensees must record each receipt (whether or not kept overnight) or other acquisition (including from a personal collection) and disposition (including to a personal collection) of a privately made firearm as required by this part, except that such information need not be recorded if the firearm is being identified under the direct supervision of another licensee with their information. Once a privately made firearm is identified by the licensee in accordance with section 478.92(a)(2), the licensee shall update the record of acquisition entry with the identifying information.

§ 478.125 [Amended]

■ 15. Amend § 478.125a as follows:

■ a. In the first sentence of paragraph (a)(4), remove ''manufacturer and importer (if any)'' and add in its place ''manufacturer(s) and importer(s) (if any) of the firearm or privately made firearm (if privately made in the United States)'', remove the words ''serial number'' and add in their place ''serial number(s)'', remove ''Manufacturer and importer (if any)'' and add in its place ''Manufacturer(s) and importer(s) (if any)'', and remove the words ''Serial No.'' and add in their place ''serial number(s)''.

■ 16. In § 478.129, revise paragraphs (b), (d), and (e) to read as follows:

§ 478.129 Record retention.

* * * * *

(b) *Firearms Transaction Record.* Licensees shall retain each Form 4473 until business is discontinued, either on paper, or in an electronic alternative method approved by the Director, at the

business premises readily accessible for inspection under this part. Paper forms over 20 years of age may be stored at a separate warehouse, which shall be considered part of the business premises for this purpose and subject to inspection under this part. Forms 4473 shall be retained in the licensee's records as provided in § 478.124(b): Provided, that Forms 4473 with respect to which a sale, delivery or transfer did not take place shall be separately retained in alphabetical (by name of transferee) or chronological (by date of transferee's certification) order.

* * * * *

(d) *Records of importation and manufacture.* Licensees shall maintain records of the importation, manufacture, or other acquisition of firearms, including ATF Forms 6 and 6A as required by subpart G of this part, until business is discontinued. Licensed importers' records and licensed manufacturers' records of the sale or other disposition of firearms after December 15, 1968, shall be retained until business is discontinued, either on paper, or in an electronic alternative method approved by the Director, at the business premises readily accessible for inspection under this part. Paper records that do not contain any open disposition entries and with no dispositions recorded within 20 years may be stored at a separate warehouse, which shall be considered part of the business premises for this purpose and subject to inspection under this part.

(e) *Records of dealers and collectors.* The records prepared by licensed dealers and licensed collectors of the sale or other disposition of firearms and the corresponding record of receipt of such firearms shall be retained until business or licensed activity is discontinued, either on paper, or in an electronic alternative method approved by the Director, at the business or collection premises readily accessible for inspection under this part. Paper records that do not contain any open disposition entries and with no dispositions recorded within 20 years may be stored at a separate warehouse, which shall be considered part of the business premises for this purpose and subject to inspection under this part.

* * * * *

PART 479—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

■ 17. The authority citation for 27 CFR part 479 continues to read as follows:

Authority: 26 U.S.C. 5812; 26 U.S.C. 5822; 26 U.S.C. 7801; 26 U.S.C. 7805.

■ 18. In § 479.11:

■ a. Add definitions for ''Complete muffler or silencer device'' and ''Complete weapon'';

■ b. Revise the definition of ''Frame or receiver'';

■ c. Add a definition for ''Readily''; and

■ d. Add a sentence at the end of the definition of ''Transfer''.

The additions and revision read as follows:

§ 479.11 Meaning of terms.

* * * * *

Complete muffler or silencer device. A muffler or silencer that contains all component parts necessary to function as designed whether or not assembled or operable.

Complete weapon. A firearm other than a muffler or silencer that contains all component parts necessary to function as designed whether or not assembled or operable.

* * * * *

Frame or receiver. The term ''frame or receiver'' shall have the same meaning as in 27 CFR 478.11.

* * * * *

Readily. A process that is fairly or reasonably efficient, quick, and easy, but not necessarily the most efficient, speedy, or easy process. Factors relevant in making this determination, with no single one controlling, include the following:

(a) Time, *i.e.,* how long it takes to finish the process;

(b) Ease, *i.e.,* how difficult it is to do so;

(c) Expertise, *i.e.,* what knowledge and skills are required;

(d) Equipment, *i.e.,* what tools are required;

(e) Availability, *i.e.,* whether additional parts are required, and how easily they can be obtained;

(f) Expense, *i.e.,* how much it costs;

(g) Scope, *i.e.,* the extent to which the subject of the process must be changed to finish it; and

(h) Feasibility, *i.e.,* whether the process would damage or destroy the subject of the process, or cause it to malfunction.

* * * * *

Transfer. * * * For purposes of this part, the term shall not include the temporary conveyance of a lawfully possessed firearm to a manufacturer or dealer qualified under this part for the sole purpose of repair, identification, evaluation, research, testing, or calibration, and return to the same lawful possessor.

* * * * *

§ 479.62 [Amended]

■ 19. In § 479.62(b)(3), remove ''manufacturer'' and add in its place ''manufacturer(s)'' and remove the words ''serial number'' and add in their place ''serial number(s)''.

§ 479.84 [Amended]

■ 20. In § 479.84(b)(8), remove ''manufacturer'' and add in its place ''manufacturer(s)'', remove the words ''importer (if known)'' and add in their place ''importer(s) (if known)'', and remove the words ''serial number'', wherever they may be, and add in their place ''serial number(s)''.

§ 479.88 [Amended]

■ 21. In § 479.88(b), remove ''manufacturer'' and add in its place ''manufacturer(s)'', remove the word ''importer'' and add in its place ''importer(s)'', and remove the words ''serial number'' and add in their place ''serial number(s)''.

§ 479.90 [Amended]

■ 22. In § 479.90(b), remove the words ''manufacturer'', wherever they may be, and add in their place ''manufacturer(s)'', remove the word ''importer'' and add in its place ''importer(s)'', and remove the words ''serial number'' and add in their place ''serial number(s)''.

■ 23. Revise § 479.102 to read as follows:

§ 479.102 Identification of firearms.

(a) *Identification required.* You, as a manufacturer, importer, or maker of a firearm, must legibly identify the firearm as follows:

(1) *Serial number, name, place of business.* By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or otherwise placed on each part (or specific part(s) previously determined by the Director) defined as a frame or receiver thereof, a serial number, in a manner not susceptible of being readily obliterated, altered, or removed. The serial number identified on each part of a weapon, including a weapon parts kit, defined as a frame or receiver must be the same number, but must not duplicate any serial number(s) placed by the licensee or maker on any other firearm. Except as provided in paragraph (b)(5) of this section, each frame or receiver thereof must also be marked with either: Your name (or recognized abbreviation), and city and State (or recognized abbreviation) where you as a manufacturer or importer maintain your place of business, or in the case of a maker, where you made the

firearm; or if a licensee, your name (or recognized abbreviation) and abbreviated Federal firearms license number as a prefix, which is the first three and last five digits, followed by a hyphen, and then followed by a number as a suffix, *e.g.,* ''12345678–[number]''; and

(2) *Model, caliber or gauge, foreign manufacturer, country of manufacture.* By engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on each part (or specific part(s) previously determined by the Director) defined as a frame or receiver, or barrel or pistol slide (if applicable) thereof certain additional information. This information must be placed in a manner not susceptible of being readily obliterated, altered, or removed. Except as provided in paragraph (b)(5) of this section, the additional information shall include:

(i) The model, if such designation has been made;

(ii) The caliber or gauge;

(iii) When applicable, the name of the foreign manufacturer or maker; and

(iv) In the case of an imported firearm, the name of the country in which it was manufactured. For additional requirements relating to imported firearms, see Customs regulations at 19 CFR part 134.

(3) *Frame or receiver, machine gun conversion part, or silencer part disposed of separately.* Except as provided in paragraph (b)(4) of this section, each part defined as a frame or receiver, machine gun, or firearm muffler or firearm silencer, that is not a component part of a complete weapon or device at the time it is sold, shipped, or otherwise disposed of by you must be identified as required by this section with a serial number not duplicated on any other firearm and all additional identifying information, except that the model designation and caliber or gauge may be omitted if that information is unknown at the time the part is identified.

(4) *Size and depth of markings.* The engraving, casting, or stamping (impressing) of the serial number and additional information must be to a minimum depth of .003 inch and in a print size no smaller than 1/16 inch. The size of serial numbers required by this section is measured as the distance between the latitudinal ends of the character impression bottoms (bases). The depth of all markings required by this section is measured from the flat surface of the metal and not the peaks or ridges.

(5) *Period of time to identify firearms.* You must identify a complete weapon or complete muffler or silencer device no later than seven days following the date of completion of the active manufacturing process for the weapon or device, or prior to disposition, whichever is sooner. Except as provided in paragraph (b)(4) of this section, you must identify each part, including a replacement part, defined as a frame or receiver, machine gun, or firearm muffler or firearm silencer, that is not a component part of a complete weapon or device at the time it is sold, shipped, or otherwise disposed of no later than seven days following the date of completion of the active manufacturing process for the part, or prior to disposition, whichever is sooner. For purposes of this paragraph, firearms actively awaiting materials, parts, or equipment repair to be completed are actively in the manufacturing process. Licensed importers must identify imported firearms within the period prescribed in § 478.112.

(6) *Meaning of marking terms.* For purposes of this section, the terms ''legible'' and ''legibly'' mean that the identification markings use exclusively Roman letters (*e.g.,* A, a, B, b, C, c) and Arabic numerals (*e.g.,* 1, 2, 3), or solely Arabic numerals, and may include a hyphen, and the terms ''conspicuous'' and ''conspicuously'' mean that the identification markings are capable of being easily seen with normal handling of the firearm and unobstructed by other markings when the complete weapon is assembled.

(b) *Exceptions*—(1) *Alternate means or period of identification.* The Director may authorize other means of identification or period of time to identify firearms upon receipt of a letter application or Form 3311.4 from you showing that such other identification or period is reasonable and will not hinder the effective administration of this part.

(2) *Destructive devices.* In the case of a destructive device, the Director may authorize other means of identification or period of time to identify that weapon upon receipt of a letter application or Form 3311.4 from you. The application shall show that engraving, casting, or stamping (impressing) such a weapon as required by this section would be dangerous or impracticable, or that the requested time period is reasonable and will not hinder the effective administration.

(3) *Adoption of identifying markings.* Licensed manufacturers and licensed importers may adopt the serial number(s) or other identifying markings previously placed on a firearm in accordance with this section provided that, within the period and in the manner herein prescribed, the licensee legibly and conspicuously places, or causes to be placed, on each part (or specific part(s) previously determined by the Director) defined as a frame or receiver either: Their name (or recognized abbreviation), and city and State (or recognized abbreviation) where they maintain their place of business; or their name (or recognized abbreviation) and their abbreviated Federal firearms license number, which is the first three and last five digits, followed by a hyphen, and then followed by the existing serial number (including any other abbreviated FFL prefix) as a suffix, *e.g.,* ''12345678–[serial number]''.

(4) *Firearm muffler or silencer parts*—(i) *Firearm muffler or silencer parts transferred between qualified manufacturers to complete new devices.* A licensed manufacturer qualified under this part may transfer a part defined as a muffler or silencer to another qualified manufacturer without immediately identifying or registering such part provided that, upon receipt, it is actively used to manufacture a new complete muffler or silencer device. Once the new device with such part is completed, the manufacturer of the device shall identify and register it in the manner and within the period specified in this part for a complete muffler or silencer device.

(ii) *Firearm muffler or silencer replacement parts transferred to qualified manufacturers or dealers to repair existing devices.* A licensed manufacturer qualified under this part may transfer a replacement part defined as a muffler or silencer other than a frame or receiver to a qualified manufacturer or dealer without identifying or registering such part provided that, upon receipt, it is actively used to repair a complete muffler or silencer device that was previously identified and registered in accordance with this part.

(5) *Firearms designed and configured before [EFFECTIVE DATE OF THE FINAL RULE].* Licensed manufacturers and licensed importers may continue to identify firearms of the same design and configuration as they existed before [EFFECTIVE DATE OF THE FINAL RULE] with the information required to be marked by paragraphs (a)(1) and (2) of this section that were in effect prior to that date, and any rules necessary to ensure such identification shall remain effective for that purpose.

(c) *Voluntary classification of firearms.* The Director may issue a determination to a person whether an item is a firearm as defined in this part

upon receipt of a written request or form prescribed by the Director. Each such voluntary request or form submitted shall be executed under the penalties of perjury with a complete and accurate description of the item, the name and address of the manufacturer or importer thereof, and a sample of such item for examination along with any instructions, guides, templates, jigs, equipment, tools, or marketing materials that are made available to the purchaser or recipient of the item. The Director shall not issue a determination regarding a firearm accessory or attachment unless it is installed on the firearm(s) in the configuration for which it is designed and intended to be used. Upon completion of the examination, the Director may return the sample to the person who made the request unless a determination is made that return of the sample would be or place the person in violation of law. A determination made by the Director under this paragraph shall not be deemed by any person to be applicable to or authoritative with respect to any other sample, design, model, or configuration.

§ 479.103 [Amended]

■ 24. In § 479.103, at the end of the third sentence, add ‘‘, except as provided in § 479.102(b)(4).’’

§ 479.112 [Amended]

■ 25. In § 479.112(a), second sentence, remove the words ‘‘serial number’’ and add in their place the words ‘‘serial number(s)’’.

§ 479.141 [Amended]

■ 26. In § 479.141, remove the word ‘‘manufacturer’’ and add in its place ‘‘manufacturer(s)’’ and remove the words ‘‘serial number’’ and add in their place ‘‘serial number(s)’’.

Dated: May 7, 2021.

Merrick B. Garland,

Attorney General.

[FR Doc. 2021–10058 Filed 5–20–21; 8:45 am]

BILLING CODE 4410–FY–P

FEDERAL REGISTER

Vol. 86 Friday,

No. 97 May 21, 2021

Part IV

Environmental Protection Agency

40 CFR Part 62

Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–HQ–OAR–2019–0338; FRL–10022–82–OAR]

RIN 2060–AU52

Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, the U.S. Environmental Protection Agency (EPA) is promulgating a Federal plan to implement the Emission Guidelines (EG) and Compliance Times for Municipal Solid Waste (MSW) Landfills (2016 MSW Landfills EG) for existing MSW landfills located in states and Indian country where state plans or tribal plans are not in effect. This MSW Landfills Federal Plan includes the same elements as required for a state plan: Identification of legal authority and mechanisms for implementation; inventory of designated facilities; emissions inventory; emission limits; compliance schedules; a process for the EPA or state review of design plans for site-specific gas collection and control systems (GCCS); testing, monitoring, reporting and record keeping requirements; and public hearing requirements. Additionally, this action summarizes implementation and delegation of authority of the MSW Landfills Federal Plan.

DATES: The final rule is effective on June 21, 2021. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of June 21, 2021.

ADDRESSES: The U.S. Environmental Protection Agency (EPA) has established a docket for this action under Docket ID No. EPA–HQ–OAR–2019–0338. All documents in the docket are listed on the *https://www.regulations.gov/* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *https://www.regulations.gov/* or in hard copy at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC. The EPA has temporarily suspended its Docket Center and Reading Room for public visitors to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. The EPA continues to carefully and continuously monitor information from the Centers for Disease Control (CDC), local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID–19. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: For questions about this final action, contact Andrew Sheppard, Sector Policies and Programs Division (E143–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4161; fax number: (919) 541–0516; and email address: *sheppard.andrew@epa.gov.* For specific information regarding the implementation of this Federal plan, contact the appropriate EPA Regional office listed in Table 3 of this preamble.

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AG attorney general
CAA Clean Air Act
CDX Central Data Exchange
CEDRI Compliance and Emissions Data Reporting Interface
CFR Code of Federal Regulations
CHIEF Clearinghouse for Inventories and Emissions Factors
COVID–19 coronavirus disease of 2019
EG emission guidelines
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
GCCS gas collection and control system
IBR incorporation by reference
LFG landfill gas
m3 cubic meter
Mg megagram
MSW municipal solid waste
NMOC nonmethane organic compounds
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement Act
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
ppm parts per million
PRA Paperwork Reduction Act
RFA Regulatory Flexible Act
RIN Regulatory Information Number
SEM surface emissions monitoring
UMRA Unfunded Mandate Reform Act
U.S.C. United States Code

Organization of this document. The information in this preamble is organized as follows:

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J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act (CRA)
L. Clean Air Act Section 307(d)

I. General Information

A. Does this action apply to me?

This final action addresses existing MSW landfills and associated solid waste management programs and promulgates regulations that were proposed on August 22, 2019 (84 FR 43745). For the purpose of this regulation, existing MSW landfills are those that accepted waste after November 8, 1987, and commenced construction on or before July 17, 2014. Table 1 of this preamble lists the associated regulated industrial source categories that are the subject of this final action. Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this final action is likely to affect. To determine whether a source would be affected by this action, please examine the applicability criteria in 40 CFR 62.16711 being finalized here. Questions regarding the applicability of this final action to a particular entity should be directed to the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

TABLE 1—INDUSTRIAL SOURCE CATEGORIES AFFECTED BY THIS ACTION

Source category	Examples of potentially regulated entities	NAICS code [1]
Industry: Air and water resource and solid waste management	Solid waste landfills	924110
Industry: Refuse systems—solid waste landfills	Solid waste landfills	562212
State, local, and tribal government agencies	Administration of air and water resource and solid waste management programs.	924110

[1] North American Industry Classification System.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this final action at *https://www.epa.gov/stationary-sources-air-pollution/municipal-solid-waste-landfills-new-source-performance-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of this final action at this same website.

C. Judicial Review

Under Clean Air Act (CAA) section 307(b)(1), judicial review of this final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by July 20, 2021. Moreover, under section 307(b)(2) of the CAA, the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements. Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment, (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration should submit a Petition for Reconsideration to the Office of the Administrator, U.S. EPA, Room 3000, WJC South Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. EPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the regulatory development background and legal authority for this action?

Under authority of the CAA, the EPA has promulgated several regulations that apply to MSW landfills. In 1996, under CAA section 111, the EPA promulgated the original standards of performance for new MSW landfills (*i.e.,* new source performance standards or NSPS) at 40 CFR part 60, subpart WWW, and EG for existing MSW landfills at 40 CFR part 60, subpart Cc (61 FR 9905; March 12, 1996). The NSPS and EG are based on the Administrator's determination that MSW landfills cause, or contribute significantly to, air pollution that may reasonably be anticipated to endanger public health or welfare. In 1999, the EPA promulgated a Federal plan under CAA section 111 to implement the 1996 EG for MSW landfills located in states that did not have approved and effective state plans (40 CFR part 62, subpart GGG) (64 FR 60689, November 8, 1999). The Federal plan was necessary to implement the 1996 EG for MSW landfills located in states and Indian country where state plans or tribal plans were not in effect.

Beginning in 2014, the EPA reviewed the NSPS and EG based on changes in the landfill industry since the rules were first promulgated in 1996, including changes to the size and number of existing landfills, industry practices, and gas control methods and technologies. In August 2016, the EPA made several revisions to further reduce emissions of landfill gas (LFG) and its components and promulgated revised subparts for the MSW Landfills NSPS at 40 CFR part 60, subpart XXX, and the EG for existing MSW landfills at 40 CFR part 60, subpart Cf (81 FR 59276 and 59332, August 29, 2016).

B. What is the purpose of this action?

The CAA regulations implementing the EG require states with existing MSW landfills subject to the EG to submit state plans to the EPA in order to implement and enforce the EG. State plans implementing the 2016 MSW Landfills EG were due on May 30, 2017.[1] For states that did not submit an

[1] May 30, 2017, was the original deadline for submission of state plans pursuant to subpart B when subpart Cf (40 CFR 60.30f(b) of this chapter) was promulgated on August 29, 2016. The EPA subsequently finalized a rulemaking (84 FR 44547) on August 26, 2019, to change the MSW Landfills state and federal plan timing requirements by incorporating revised state and federal plan timing requirements in the newly promulgated subpart Ba (84 FR 32520, July 8, 2019), which had the effect

Continued

approvable plan by that deadline, CAA section 111 and 40 CFR 60.27(c) and (d) require the EPA to develop, implement, and enforce a Federal plan for existing MSW landfills located in any state (*i.e.,* state, territory, or protectorate) or Indian country that does not have an approved state plan [2] that implements the 2016 MSW Landfills EG. On August 22, 2019, the EPA proposed a Federal plan under CAA section 111 to implement the 2016 EG for MSW landfills located in states that did not have approved and effective state plans (40 CFR part 62, subpart OOO) (84 FR 43745, August 22, 2019). On February 29, 2020, the EPA found 42 states and territories failed to submit state plans for the 2016 MSW Landfills EG (85 FR 14474, February 29, 2020), and as a result, this final action establishes an MSW Landfills Federal Plan to implement the 2016 MSW Landfills EG for those states that do not presently have an approved state plan.

For the purposes of this preamble and the MSW Landfills Federal Plan, the word ''state'' means any of the 50 United States, local agencies that have been delegated implementation and enforcement authority within those states, and the protectorates of the United States. The word ''protectorate'' means American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, and the Virgin Islands.

C. What is a negative declaration letter?

A negative declaration is a letter to the EPA declaring either that there are no existing MSW landfills in the state or portion of Indian country at all or that there are no existing MSW landfills in the state or portion of Indian country that must install collection and control systems according to the requirements of the 2016 MSW Landfills EG. States or Indian tribes that submit negative declarations are not expected to submit state or tribal plans. Accordingly, because states and Indian tribes with approved negative declarations do not have approved state or tribal plans, existing MSW landfills with a design capacity equal to or greater than 2.5 million megagrams (Mg) and 2.5 million cubic meters (m^3) in the state or portion of Indian country are considered to be subject to the MSW Landfills Federal Plan. Existing MSW landfills with a design capacity less than 2.5 million Mg or 2.5 million m^3 that are located in states or portion of Indian country that submitted a negative declaration are not required to submit an initial design capacity report if the negative declaration letter includes the design capacity for the landfills. Such MSW landfills, however, continue to be subject to the requirements in the definition of design capacity in 40 CFR 62.16730 to recalculate the site-specific density annually and in 40 CFR 62.16724(b) to submit an amended design capacity report in the event that the recalculated design capacity is equal to or greater than 2.5 million Mg and 2.5 million m^3, as clarified in 40 CFR 62.16711(c).

D. What is the status of state plan submittals?

Before proposal of this Federal plan on August 22, 2019, the EPA had received 8 state plan submittals to implement the 2016 MSW Landfills EG, which included submittals from the following: Arizona (one plan covering Maricopa County, one covering Pinal County, and another covering the remainder of the state excluding Pima county), California, Delaware, New Mexico (one plan covering Albuquerque-Bernalillo County and another covering the remainder of the state), and West Virginia. The EPA has reviewed and fully approved six of these state plans that were submitted. The EPA also partially approved and partially disapproved the California state plan. See the memorandum, *Approved State Plans Implementing the 2016 MSW Landfills Emission Guidelines,* which is available in the docket for this action. The plan from Maricopa County, Arizona, was withdrawn on July 3, 2019. The EPA subsequently received and approved negative declarations from three additional states (Maine, Rhode Island, and Vermont) and two local authorities (Washington, DC and Philadelphia, Pennsylvania) as well as three state plans (Oregon, South Dakota and Virginia). The EPA is not aware of any tribes that have developed plans to implement the 2016 MSW Landfills EG or submitted negative declarations. For all other locations, the EPA is establishing this MSW Landfills Federal Plan to implement the 2016 MSW Landfills EG in states and Indian country that do not yet have an approved and effective state or tribal plan.

The California state plan was partially disapproved because it does not fully meet certain provisions of the 2016 MSW Landfills EG. The California state plan omitted certain operational, monitoring, recordkeeping, and corrective action requirements related to temperature and/or oxygen or nitrogen levels. Therefore, in accordance with 40 CFR 60.27(c), the EPA is revising 40 CFR part 62, subpart F to identify the provisions of the Federal plan corresponding to the omitted requirements (40 CFR 60.34f(c), 60.36f(a)(5), 60.37f(a)(2) and (3), 60.38f(k), and 60.39f(e)(2) and (5)) that existing MSW landfills in California must implement in addition to the approved portion of the California plan. That update is described in section V of this preamble.

As of March 23, 2021, two more states (New York, Florida) have submitted state plans for review. The MSW landfills covered by the state plans submitted to date will not be subject to the MSW Landfills Federal Plan once the state plan that includes those MSW landfills has been approved and becomes effective. However, MSW landfills located in those states would remain subject to the Federal plan (or portions of the Federal plan) in the event that the state plan is subsequently disapproved, in whole or in part. Table 2 of this preamble summarizes the status of state plans and negative declarations as of February 5, 2021.

TABLE 2—STATUS OF STATE PLANS

Status	States
I. EPA-Approved State Plans	Arizona (one plan covering Pinal County and another covering the state); [1] California (partial approval, partial disapproval); Delaware; New Mexico (one plan covering Albuquerque-Bernalillo County and another covering the state); Oregon; South Dakota; Virginia; and West Virginia.

of extending the deadline for state plan submissions for subpart Cf. The timing requirements in subpart Ba were subsequently vacated by *American Lung Ass'n* v. *EPA,* 985 F.3d 914, 991–95 (D.C. Cir. 2021) (*ALA*). In light of the *ALA* decision, The EPA has moved for voluntary vacatur of the subsequent landfills rulemaking. *See Environmental Defense Fund* v. *EPA,* No. 19–1222 (D.C. Circuit). As a result, the original timelines in subpart B would apply again to the landfills plans.

[2] An approved state plan is a plan developed by a state that the EPA has reviewed and approved based on the requirements in 40 CFR part 60, subparts B or Ba, as applicable, to implement 40 CFR part 60, subpart Cf.

TABLE 2—STATUS OF STATE PLANS—Continued

Status	States
II. Negative Declarations Approved by the EPA	Maine; Rhode Island; Vermont; Washington, DC; Philadelphia, Pennsylvania.
III. Final State Plans and Negative Declarations Submitted to the EPA.	Florida; New York.
IV. EPA Has Not Received a Final State Plan or Negative Declaration.	Alabama; Alaska; Arkansas; Colorado; Connecticut; Georgia; Hawaii; Idaho; Illinois; Indiana; Iowa; Kansas; Kentucky; Louisiana; Maryland; Massachusetts; Michigan; Minnesota; Mississippi; Missouri; Montana; Nebraska; Nevada; New Hampshire; New Jersey; North Carolina; North Dakota; Ohio; Oklahoma; Pennsylvania; Puerto Rico; South Carolina; Tennessee; Texas; Utah; Virgin Islands; Washington; Wisconsin; Wyoming.

[1] The Arizona state plan does not cover Maricopa or Pima counties.

As the EPA Regional offices approve state plans subsequent to the issuance of the Federal plan, they will also, in the same action, amend the appropriate subpart of 40 CFR part 62 to codify their approvals. MSW landfill owners or operators can also contact the EPA Regional office for the state in which their MSW landfill is located to determine whether there is an approved and effective state plan in place. Table 3 of this preamble lists the addresses for the EPA Regional offices and the states that they cover.

TABLE 3—EPA REGIONAL OFFICES

Region	Address	States and territories
Region I	5 Post Office Square–Suite 100, Boston, MA 02109–3912	Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont.
Region II	290 Broadway, New York, NY 10007–1866	New York, New Jersey, Puerto Rico, Virgin Islands.
Region III	Air Protection Division, Mail Code 3AP00, 1650 Arch Street, Philadelphia, PA 19103–1129.	Virginia, Delaware, District of Columbia, Maryland, Pennsylvania, West Virginia.
Region IV	61 Forsyth Street SW, Atlanta, GA 30303–3104	Florida, Georgia, North Carolina, Alabama, Kentucky, Mississippi, South Carolina, Tennessee.
Region V	Mail Code A–17J, 77 West Jackson Blvd., Chicago, Il 60604–3590.	Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio.
Region VI	1201 Elm Street, Suite 500, Dallas, TX 75270–2102	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Region VII	Air and Waste Management Division, 11201 Renner Boulevard, Lenexa, Kansas 66219.	Iowa, Kansas, Missouri, Nebraska.
Region VIII	Director, Air Program, Office of Partnerships and Regulatory Assistance, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, CO 80202–1129.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
Region IX	75 Hawthorne Street, San Francisco, CA 94105	Arizona, California, Hawaii, Nevada, American Samoa, Guam, Northern Mariana Islands.
Region X	1200 6th Avenue, Suite 155, Seattle, WA 98101	Washington, Alaska, Idaho, Oregon.

E. What are the elements of the MSW Landfills Federal Plan?

Section 111(d) of the CAA, as amended, 42 U.S.C. 7411(d), requires states to develop and implement state plans for MSW landfills to implement and enforce the promulgated EG. Accordingly, 40 CFR part 60, subpart Cf requires states to submit state plans that include specified elements. Because this Federal plan takes the place of state plans, where state plans are not fully approved and effective, it includes the same essential elements: (1) Identification of legal authority and mechanisms for implementation; (2) inventory of designated facilities; (3) inventory of emissions; (4) emission limits; (5) compliance schedules; (6) process for the EPA or state review of site-specific design plans for GCCS; (7) testing, monitoring, reporting, and recordkeeping requirements; and (8) public hearing requirements. Each element was discussed in detail as it relates to the Federal plan in section IV of the preamble of the proposed rule (84 FR 43745, August 22, 2019).

III. What are the designated facilities?

A. What is a designated MSW landfill?

The designated facility for the MSW Landfills Federal Plan is each MSW landfill that (1) commenced construction, reconstruction, or modification prior to July 17, 2014, and has not been modified or reconstructed since then, and (2) has accepted waste since November 8, 1987, or has capacity for future waste deposition, which also includes MSW landfills that were subject to 40 CFR part 62, subpart GGG or 40 CFR part 60, subpart WWW.

If an existing MSW landfill subject to the Federal plan increases its permitted volume design capacity through vertical or horizontal expansion (*i.e.,* is modified) on or after July 17, 2014, it would be subject to the MSW Landfills NSPS (40 CFR part 60, subpart XXX) (see 81 FR 59332, August 29, 2016) and would no longer be subject to the Federal plan. An existing MSW landfill that makes operational changes without increasing the horizontal or vertical dimensions of the landfill would continue to be subject to the Federal or approved state plan that implements the 2016 MSW Landfills EG, rather than the NSPS.

B. How do I determine if my MSW landfill is covered by an approved and effective state plan?

The status of approval and promulgation of CAA section 111(d) state plans for designated sources in each state or territory is identified in 40 CFR part 62. However, 40 CFR part 62 is only updated periodically. Thus, if 40 CFR part 62 does not indicate that a state has an approved and effective plan, please contact the appropriate EPA Regional office (see Table 3 in section II.D of this preamble) to determine if approval has occurred

since publication of the most recent version of 40 CFR part 62. Each state plan becomes effective 30 days after the final EPA approval of the state plan is published in the **Federal Register**.

This final action does not preclude states from submitting a state plan later. If a state submits a plan after the promulgation date of the MSW Landfills Federal Plan, the EPA will review and approve or disapprove the state plan. If the EPA approves a plan, then the MSW Landfills Federal Plan no longer applies to MSW landfills covered by the state plan. If an MSW landfill is overlooked by a state that has an approved negative declaration, or if an individual MSW landfill is not covered by an approved and effective state plan, the MSW landfill will remain subject to this Federal plan.

IV. Summary of Changes Since Proposal and Response to Comments

This section summarizes all changes made to the Federal plan since proposal, in part, in response to public comments. The changes include clarifications regarding initial reporting requirements and timing of GCCS for landfills that have previously submitted a GCCS design plan for other MSW landfill Federal regulations, clarifications on LFG treatment system monitoring plan requirements, and the updated inventory of designated facilities and their emissions. The EPA received six comment letters on the proposed MSW Landfills Federal Plan. Certain comments and responses are contained in this section that are relevant to the EPA's clarification of requirements.[3] For more information, see the response to comments document, titled *Summary of Public Comments and EPA's Responses for the Proposed Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014, and Have Not Been Modified or Reconstructed Since July 17, 2014,* which is available in the docket for this action.

A. Clarification of Requirements

1. Legacy Controlled Landfills

Comment: Two commenters requested that the EPA clarify the compliance timelines and requirements for plan submittals to address existing MSW landfills that have already installed a GCCS. Specifically, one commenter requested that the EPA clarify which of the initial plans and reports are required for existing landfills that already submitted such initial reports under the subpart WWW NSPS. The other commenter suggested that landfills that have already installed a GCCS should not be subject to the second and third increments of progress, since awarding contracts and initiating on-site construction may have already occurred. The commenter said that such landfills would still be subject to the requirement to fully comply with all aspects of the Federal plan as of the 30-month deadline.

Response: The EPA agrees that additional clarification is needed regarding several compliance obligations for landfills that are already controlling emissions under previous Federal regulations. Although EPA anticipated that additional landfills would require controls as a result of the revised regulations at 40 CFR part 60, subpart Cf, EPA's intent was that, if a landfill was already classified as a ''controlled landfill,'' the 30-month period to install and operate a GCCS cannot be reset or restarted. Therefore, the EPA is clarifying its intent in the regulatory provisions for the timing of compliance with certain requirements for landfills that were considered to be a controlled landfill under 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc, as discussed in the remainder of this response.

The NSPS at 40 CFR part 60, subpart WWW, identified and defined the term ''controlled landfill'' as one that had triggered the nonmethane organic compounds (NMOC) threshold of 50 Mg per year or more and submitted its collection and control system design plan. The provisions of 40 CFR part 60, subpart WWW, require the design plan to be submitted within 1 year of the first NMOC annual emission rate report that is equal to or greater than 50 Mg per year NMOC. The EG at 40 CFR part 60, subpart Cc, and the Federal plan at 40 CFR part 62, subpart GGG, do not define the term ''controlled landfill'' directly but note that the definition of terms used but not defined in those subparts has the meaning given them in the CAA and in 40 CFR part 60, subparts A, B, and WWW. These rules provide the same timing allowance of 1 year after the NMOC report showing emissions of 50 Mg NMOC per year or more to submit the collection and control system design plan. These landfills have already met requirements under existing 40 CFR part 60 or part 62 regulations, and the EPA emphasizes that there is no need to duplicate those efforts when complying with the Federal plan being finalized in this action. The EPA has added a definition of the term ''legacy controlled landfill'' to 40 CFR 62.16730 to clarify requirements and compliance times for these landfills.

Legacy controlled landfills have previously satisfied the requirement to submit their initial design capacity report, initial or annual NMOC emission rate reports, and collection and control system design plan. These reports were previously submitted under 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc. The EPA has clarified that it is not requiring these sources to resubmit any of these reports under 40 CFR 62.16711(h).

Additionally, because annual NMOC reports have been previously submitted under 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc, some of the legacy controlled landfills have already passed the 30-month period after the first NMOC report that showed emissions of 50 Mg NMOC per year or more. Other legacy controlled landfills may not reach the end of the 30-month period until after this Federal plan becomes effective. The EPA has revised some of the increments of progress at 40 CFR 62.16712 to account for landfills that have already achieved some or all of the increments of progress. The EPA has also revised 40 CFR 62.16711(h), 62.16714(b)(2), 62.16724, and Table 1 of 40 CFR part 62, subpart OOO to more clearly define the requirements for these legacy controlled landfills.

In this action, the EPA is also clarifying that legacy controlled landfills will continue to install and expand their GCCS under the Federal plan at the same schedule required by the previous landfill rules. That is, the owner or operator must expand the GCCS every 5 years if in active areas, or every 2 years if the area is closed or at final grade. Similar to our intent that the 30-month period not be stopped or restarted with the promulgation of this Federal plan, the timeframe for GCCS expansions will continue without break as a landfill transitions from one of the previous regulations into this Federal plan.

Legacy controlled landfills have until the effective date of this regulation June 21, 2021 to demonstrate compliance with the GCCS operational standards and the monitoring, reporting, and recordkeeping requirements outlined in the Federal plan. The MSW Landfills Federal Plan implements the 2016 MSW Landfills EG, which included some

[3] Copies of all comments submitted are available at the EPA Docket Center Public Reading Room and are also available electronically through *https://www.regulations.gov/* by searching Docket ID No. EPA–HQ–OAR–2019–0338.

changes to the GCCS operational standards, and associated monitoring, recordkeeping, and reporting requirements from the original NSPS and EG regulations. The MSW Landfills EG was published in August 2016, over 3 years prior to the publication of the proposed Federal plan. Additionally, many of these requirements have provided additional operational flexibility to landfills, such as the removal of the oxygen/nitrogen operational standard at wellheads, the option to meet some of the GCCS removal criteria by demonstrating that the control system cannot operate for 15 years, new optional Tier 4 surface-emissions-based provisions, and the ability to use actual gas flow data instead of modeled emissions for excluding non-productive areas of the landfill from control. Prior to compliance with the new requirements, owners or operators of legacy controlled landfills must continue to operate the GCCS and monitor, report, and keep records in accordance with the requirements in 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc, depending on which regulation applies to the landfill before this Federal plan becomes effective.

The EPA also acknowledges that some of the legacy controlled landfills have already conducted initial performance tests or submitted initial annual reports under the previous regulations. The EPA is exempting legacy controlled landfills from the requirement to redo any initial performance tests that were previously submitted under 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc. However, if legacy controlled landfills add additional flares or any other additional control equipment after this Federal plan becomes effective, those test results must be submitted to EPA's Central Data Exchange (CDX) and included in future annual reports. Similarly, the EPA is clarifying the timing of the initial annual report for legacy controlled landfills that have already submitted an initial report under previous landfill regulations. The EPA is clarifying in 40 CFR 62.16724(h) that legacy controlled landfills continue the annual frequency for reporting by allowing submittal 1 year after the report was submitted under the previous regulations. The contents of the annual reports submitted after this Federal plan becomes effective must reflect the requirements listed in 40 CFR 62.16724(h). For example, if a landfill submitted its last annual report under 40 CFR part 60, subpart WWW, in January 2021, the annual report under 40 CFR part 62, subpart OOO, will be due in January 2022 (1 year after the latest report) and submitted to CDX.

The EPA also acknowledges some clarifications are necessary regarding the timing of treatment system monitoring plans for legacy controlled landfills that were treating LFG for subsequent sale or beneficial reuse before the effective date of the Federal plan. In the 2016 MSW Landfills EG, the EPA finalized a new requirement to prepare a treatment system monitoring plan (40 CFR 60.39f(b)(5)). This plan was required to be submitted as part of the landfill's title V application and the plan would be reviewed as part of the general permitting process. Because legacy controlled landfills may not have already submitted this plan under the 5-year title V renewal timeline, we have clarified in 40 CFR 62.16724(d)(7) that legacy controlled landfills have up to May 23, 2022, to develop or update this plan. See EPA's Response to Comments document for the 2016 MSW Landfills EG (Docket ID Item No. EPA–HQ–OAR–2014–0451–0229, section 11.7). Landfills that are treating LFG are anticipated to already have documentation in place for LFG treatment specifications that are related to contractual agreements or operational procedures. Therefore, the EPA has determined that 1 year is sufficient time to complete this requirement under the Federal plan.

2. Closed Landfills and the Closed Landfill Subcategory

The EPA is clarifying the compliance obligation requirements for closed landfills, although these clarifications did not lead to a change in the regulatory text. The 2016 MSW Landfills EG established a closed landfill subcategory for landfills that closed on or before September 27, 2017. For landfills that meet the criteria of the closed landfill subcategory, the EPA is finalizing, as proposed, the exemption from submitting an initial or most recent NMOC emission rate report provided that the report showed emissions below 50 Mg per year, which is the emission threshold for this subcategory (see 40 CFR 62.16711(g)(2)). However, for landfills that have closed since September 28, 2017, the EPA is requiring an initial NMOC emission rate report in order to assess whether the landfill exceeds the lower threshold of 34 Mg per year and must install a GCCS (see 40 CFR 62.16714(e)). Because the emission rate threshold has been reduced, this initial report is necessary in order to establish the timeline and applicability for control requirements. After the initial NMOC report, subsequent annual reports are not required for closed landfills, as stated in 40 CFR 62.16714(e)(1)(ii). Similarly, landfills that had already installed a GCCS under 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc and have closed since September 28, 2017, do not need to submit an initial NMOC report and are not required to submit subsequent annual reports (see 40 CFR 62.16714(e)(1)(ii)).

3. Other Technical Corrections and Clarifications

The EPA is making several technical corrections in this final action that were identified during the public comment process in order to improve the clarity of the rule. Two commenters noted that a typo appeared in 40 CFR 62.16711(a)(1), where ''July 14, 2014'' appeared instead of the correct date, ''July 17, 2014.'' The EPA has corrected this typographical error in the final regulation. One commenter pointed out that 40 CFR 62.16712(a) instructed readers to refer to 40 CFR 62.16730 for a definition of each increment of progress, however, the section did not contain these definitions. The EPA agrees with this missing reference and has added definitions to 40 CFR 62.16730 for nine terms: ''Achieve final compliance,'' ''Award contract,'' ''Complete on-site construction,'' ''EPA approved state plan,'' ''Final control plan (Collection and control system design plan),'' ''Indian Country,'' ''Initiate on-site construction,'' ''Negative declaration letter,'' and ''Tribal plan.'' These definitions are consistent with the terms as defined in 40 CFR part 62, subpart GGG, and include modifications specific to the requirements of this MSW Landfills Federal Plan. The same commenter further noted that 40 CFR 62.16712(c) referred to Table 2 in subpart OOO for site-specific compliance schedules, though there is no Table 2 included in subpart OOO. The EPA has not received any requests for site-specific compliance schedules, and we are therefore not including a Table 2 in the final rule. As such, the EPA has removed any reference to Table 2 from the regulatory text. Additionally, the EPA has corrected the citations in the regulatory text to refer to 40 CFR 62.16710–62.16730 instead of 40 CFR 62.710–62.730.

B. Inventory of Designated MSW Landfills

The docket for this action includes an inventory of the MSW landfills that are covered by this MSW Landfills Federal Plan in the absence of approved state or tribal plans. The inventory of designated facilities and their corresponding emissions are elements of a Federal plan, as discussed in section II.E of this preamble. At proposal, the EPA developed an initial inventory of landfills and emissions by identifying existing landfills that were expected to be covered by the proposed Federal plan (Docket ID Item No. EPA–HQ–OAR–2019–0338–0006) and requested that states or owners or operators identify additional sources for inclusion on the list. During the comment period, the EPA received one comment that provided edits to the source inventory for MSW landfills in Oklahoma. The commenter provided updated information about three landfills in the draft source inventory and provided a list of 11 landfills that accepted waste after November 8, 1987, that were missing from the draft inventory. A complete list of the additional landfills can be found in the comment letter (Docket ID Item No. EPA–HQ–OAR–2019–0338–0012). In addition to adjusting the inventory based on public comments, the EPA reviewed and approved several state plans since proposal, as listed in section II.D of this preamble. Therefore, the EPA has also adjusted the inventory to remove any landfills for which EPA has signed an approval (full or partial) for the state plan, regardless of whether or not it has been published in the **Federal Register** and become effective. Since the approvals were submitted to the **Federal Register** before this rule, it is expected that the previously-approved state plans will be effective before the effective date of the MSW Landfills Federal Plan.

As of February 2021, there are an estimated 1,590 landfills covered by this final Federal plan. These landfills exist in 42 states and the U.S. territories of Puerto Rico and the Virgin Islands. Additionally, one tribal entity, the Salt River Pima Maricopa Indian Community, is covered by this final Federal plan. For a discussion of the sources, their locations, and information used to develop the source list, see the memorandum, *Developing a Federal Plan Source and Emission Inventory-Final Rule, February 2021,* which is available in the docket for this action. In addition to this list, any MSW landfill that meets the applicability criteria in this action is subject to the Federal plan, regardless of whether it is listed in the final inventory included in *Developing a Federal Plan Source and Emission Inventory-Final Rule, February 2021.*

C. Inventory of Emissions

As a required element of this Federal plan, the docket contains an inventory of emissions from the MSW landfills that are covered by this final Federal plan. The EPA estimated the emissions from the inventory of existing MSW landfills that are expected to be covered by the Federal plan as of February 5, 2021. Pollutant emissions are expressed in Mg NMOC per year in calendar year 2021. Table 4 of this preamble summarizes the results of the inventory.

These estimates are based solely on the modeled emissions remaining after considering controls required by 40 CFR part 60, subparts WWW and Cc, and do not include any additional emissions reductions from voluntary actions, such as early installation of the GCCS. See the memorandum, *Developing a Federal Plan Source and Emission Inventory-Final Rule, February 2021,* which is available in the docket for this action, for the complete emissions inventory, including detailed emissions from MSW landfills in each state, and details on the calculations used to determine those emissions.

TABLE 4—SUMMARY OF ESTIMATED NMOC EMISSIONS FROM EXISTING MSW LANDFILLS EXPECTED TO BE COVERED BY THE FEDERAL PLAN

Region/state	2021 NMOC emissions (Mg per year)
Region 1:	
Connecticut	13
Massachusetts	391
New Hampshire	74
Region 2:	
New Jersey	318
New York	833
Puerto Rico	268
Virgin Islands	13
Region 3:	
Maryland	412
Pennsylvania	1,391
Region 4:	
Alabama	424
Florida	1,121
Georgia	1,082
Kentucky	519
Mississippi	205
North Carolina	934
South Carolina	440
Tennessee	816
Region 5:	
Illinois	1,301
Indiana	767
Michigan	1,164
Minnesota	258
Ohio	1,189
Wisconsin	513
Region 6:	
Arkansas	319
Louisiana	587
Oklahoma	318
Texas	2,030
Region 7:	
Iowa	358
Kansas	330
Missouri	427
Nebraska	279
Region 8:	
Colorado	772
Montana	93
North Dakota	50
Utah	298
Wyoming	48
Region 9:	
Arizona *	377
Hawaii	112
Nevada	75
Region 10:	
Alaska	91
Idaho	113
Washington	388

* *Arizona includes estimates for 18 landfills in Maricopa and Pima counties only.*

V. Summary of Final MSW Landfills Federal Plan Requirements

A. What are the final applicability requirements?

The Federal plan applicability criteria (40 CFR 62.16711) reflect those established by the 2016 MSW Landfills EG (40 CFR 60.31f). The designated facility for this MSW Landfills Federal Plan is described in section III.A of this preamble and this action establishes an MSW Landfills Federal Plan to implement the 2016 MSW Landfills EG for designated facilities located in states and tribal countries without an approved state plan.

The EPA partially approved and partially disapproved the California state plan because the plan omitted certain required provisions. Thus, for MSW landfills that are affected by the California state plan, the EPA is updating 40 CFR part 62, subpart F (40 CFR 62.1115(b)(2)) to identify the provisions of the Federal plan corresponding to the omitted requirements that existing MSW landfills in California must implement in addition to the approved portion of the California plan: 40 CFR 62.16716(c) wellhead operational standards (corresponding to 40 CFR 60.34f(c)), 62.16720(a)(5) wellhead monitoring (corresponding to 40 CFR 60.36f(a)(5)),

62.16722(a)(2) and (3) wellhead monitoring (corresponding to 40 CFR 60.37f(a)(2) and (3)), 62.16724(k) corrective action (corresponding to 40 CFR 60.38f(k)), and 62.16726(e)(2) and (5) recordkeeping (corresponding to 40 CFR 60.39f(e)(2) and (5)).

B. What are the final compliance schedules?

Unless the landfill is a legacy controlled landfill, owners or operators of MSW landfills subject to the MSW Landfills Federal Plan are required to submit a design capacity report within 90 days after the effective date of the Federal plan (40 CFR 62.16724(a)). If the design capacity report indicates a capacity equal to or greater than 2.5 million Mg and 2.5 million m^3 of solid waste a landfill can accept, an annual NMOC emission rate report must also be submitted within 90 days after the effective date of the Federal plan and then every 12 months until the landfill installs a GCCS (40 CFR 62.16724(c)). As discussed in section IV.A of this preamble, legacy controlled landfills have satisfied the requirement to submit their initial design capacity report and NMOC emission rate report with their initial reports previously submitted under 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc.

If the first NMOC emission rate report submitted under the MSW Landfills Federal Plan shows emissions less than 34 Mg per year NMOC (50 Mg per year for the closed landfill subcategory), then the owner or operator must recalculate NMOC emissions annually and submit annual NMOC emission rate reports unless the MSW landfill is closed. (See 40 CFR 62.16724(c)(3) for conditions under which 5-year reports rather than annual reports may be submitted.)

If an emission rate report shows that NMOC emissions equal or exceed 34 Mg per year, the owner or operator must begin following enforceable increments of progress to install and operate a GCCS within 30 months after the date the first annual NMOC Emission Rate Report shows NMOC reaching or exceeding 34 Mg per year NMOC (40 CFR 62.16712). Therefore, the generic schedule for the increments of progress starts with the date of the first annual emission rate report that shows NMOC emissions equal or exceed 34 Mg per year (40 CFR 62.16712(c)). Alternatively, a landfill may follow Tier 4 as discussed later in this section (40 CFR 62.16718(a)(6)). Legacy controlled landfills have 30 months from when they submitted an NMOC emission rate report that showed emissions of 50 Mg per year or greater under 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc to demonstrate compliance with the increments of progress to install a GCCS. All designated facilities with a design capacity equal to or greater than 2.5 million Mg and 2.5 million m^3 are required to submit subsequent NMOC emission rate reports until the collection and control system begins operating in accordance with 40 CFR 62.16716.

Increments of progress are required only for requirements with compliance deadlines exceeding 1 year. Therefore, the 30-month compliance timeline only applies to installations of GCCS for those sources newly subject to these requirements because of the revision to the NMOC emissions threshold. Otherwise, all designated facilities must comply with all applicable standards and monitoring, recordkeeping, and reporting requirements as of the effective date of this rule June 21, 2021. For example, landfills must monitor all cover penetrations and keep records of locational data (longitude and latitude coordinates) of each monitored exceedance during quarterly surface emissions monitoring (SEM) as of the effective date of this rule. Additionally, certain reports are required to be submitted electronically after the effective date of this rule.

This MSW Landfills Federal Plan includes the five increments of progress required by 40 CFR 60.24(e)(1) and provides flexibility to establish the increment dates (40 CFR 62.16712). The MSW Landfills Federal Plan contains a generic compliance schedule (Table 1 to 40 CFR part 62, subpart OOO) that applies to designated MSW landfills unless the EPA approves an alternative schedule according to the criteria in 40 CFR 60.27(e)(2). Legacy controlled landfills have already satisfied, at a minimum, the first increment of progress under their previous rule. Depending on where the landfill is in the construction and operation phase of its GCCS, they may have already satisfied all five increments of progress. If a landfill has not yet reached increment 5 (achieve final compliance), it must demonstrate compliance with any remaining increments of progress on this schedule. However, the landfill must use the date of its first NMOC emission rate report submitted under 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc showing NMOC emissions at or above 50 Mg to calculate deadlines for remaining increments not yet met. The landfill may not resubmit a new emission rate report to restart the timeline for meeting each increment of progress.

The five mandatory increments of progress are as follows:

1. Submit final control plan (design plan)—12 months after the first annual emission rate report showing NMOC emissions ≥34 Mg per year (≥50 Mg per year for the closed landfill subcategory).
2. Award contracts for control systems or orders for purchase of components—20 months after the first annual emission rate report showing NMOC emissions ≥34 Mg per year (≥50 Mg per year for the closed landfill subcategory).
3. Begin on-site construction or installation of the GCCS—24 months after the first annual emission rate report showing NMOC emissions ≥34 Mg per year (≥50 Mg per year for the closed landfill subcategory).
4. Complete on-site construction or installation of the GCCS—30 months after the first annual emission rate report showing NMOC emissions ≥34 Mg per year (≥50 Mg per year for the closed landfill subcategory).
5. Achieve final compliance—30 months after the first annual emission rate report showing NMOC emissions ≥34 Mg per year (≥50 Mg per year for the closed landfill subcategory). Note that the initial performance test to demonstrate compliance must be conducted within 180 days after the date the landfill is required to achieve final compliance. For a legacy controlled landfill, the initial or most recent performance test conducted to comply with 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc, is sufficient for compliance with this part. The test report does not have to be resubmitted.

The compliance deadline for the first, fourth, and fifth increments is established in the 2016 MSW Landfill EG. The EPA selected the deadlines for the second and third increments to match the lengths of time for these increments that was included in the previous Federal plan for MSW landfills and to allow a reasonable period of time for MSW landfills to: Complete these activities, have the regulatory agency review and approve the design plan, solicit bids, and award contracts within the overall implementation schedule. According to 40 CFR 60.27(e)(1), Federal plan compliance times may be no less stringent than those established in the EG. The EPA will accept facility-specific compliance schedules from MSW landfill owners or operators, as allowed under 40 CFR 60.27(e)(2). However, owners or operators using alternate dates for increments 2 and 3

must continue to meet the required dates for increments 1, 4, and 5.

Owners or operators employing Tier 4 would follow the generic compliance schedule for Tier 4 landfills in Table 1 to 40 CFR part 62, subpart OOO. Increment 1 is triggered by the first measured concentration of methane of 500 parts per million (ppm) or greater, rather than the initial NMOC emission rate report showing NMOC emissions 34 Mg per year or greater. Landfills employing Tier 4 would continue to submit an annual NMOC emission rate report (40 CFR 62.16724(c)). Timing of increments 2 through 5 for Tier 4 landfills are based on the *most recent* NMOC emission rate report showing NMOC emissions rate of 34 Mg per year or greater.

C. What are the final emissions limits and operating limits?

The EPA requires that an MSW landfill subject to the Federal plan must install and operate a GCCS that meets specified emissions and operating limits (40 CFR 62.16714 and 40 CFR 62.16716), if the NMOC emissions rate is 34 Mg per year or more (50 Mg per year or more for the closed landfill subcategory). The standards require owners or operators to operate the GCCS at a negative pressure at each wellhead (except during certain specified conditions), operate the interior wellhead at a temperature less than 55 degrees Celsius (131 degrees Fahrenheit), and operate the collection system so that the methane concentration is less than 500 ppm above background at the surface of the landfill (40 CFR 62.16716(b)—(d)). The owner or operator of a landfill must control the collected gas by routing it to either: (1) A non-enclosed flare designed and operated according to the requirements of 40 CFR 60.18, (2) an enclosed control device achieving 98-percent NMOC reduction or an outlet concentration of 20 ppm NMOC by volume or less, or (3) a gas treatment system that processes the collected gas for subsequent sale or beneficial use (40 CFR 62.16714(c)).

The requirements of the Federal plan are the same as the requirements of the 2016 MSW Landfills EG. Consistent with a **Federal Register** document on March 16, 2020 (85 FR 17244), this Federal plan applies the ''opt-in'' provisions that allow MSW landfills affected by the NSPS and EG to demonstrate compliance with the major compliance provisions of the National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills (MSW Landfills NESHAP) in lieu of complying with the analogous provisions in the NSPS and EG. The opt-in provisions allow landfills to follow one set of operational, compliance, monitoring, and reporting provisions for pressure and temperature. The opt-in provisions appear in this Federal plan at 40 CFR 62.16716, 62.16720, and 62.16722, as well as corresponding recordkeeping and reporting provisions in 40 CFR 62.16724 and 62.17726.

This Federal plan also applies a technical correction made to the compliance provisions section of the MSW Landfills EG (85 FR 17244, March 16, 2020). The technical correction appears in this Federal plan at 40 CFR 62.16720(a)(3)(ii). The technical correction accounts for elevated temperature measurement as a parameter for which the root cause analysis is required and for which the owner or operator must follow the corrective action schedule.

D. What are the final performance testing and monitoring requirements?

1. NMOC Emissions Rate

The EPA requires that, to determine if a GCCS is required, the owner or operator must determine NMOC emissions using one or both of the two emission rate equations in the rule and one of four optional methods to determine the model inputs (referred to as tier methods in the rule) (40 CFR 62.16718(a)). Tier 1 uses default assumptions for methane generation rate and NMOC concentration in the emissions model (40 CFR 62.16718(a)(2)). Tier 2 requires testing to determine a site-specific NMOC concentration. Tier 3 requires testing to determine a site-specific NMOC concentration and methane generation rate (40 CFR 62.16718(a)(4)). Any MSW landfill that exceeds the NMOC emissions threshold using Tier 2 or 3 would install a GCCS unless the owner or operator chooses to use Tier 4 (40 CFR 62.16718(a)(6)).

Tier 4 is based on SEM to demonstrate that surface emissions are low (40 CFR 62.16718(a)(6)). An owner or operator can use Tier 4 only if the MSW landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 Mg per year but less than 50 Mg per year using Tier 1 or Tier 2. An MSW landfill employing Tier 4 that can demonstrate that surface emissions are below 500 ppm for four consecutive quarters would not trigger the requirement to install a GCCS even if Tier 1, 2, or 3 calculations indicate that the 34 Mg per year threshold has been exceeded. However, once SEM demonstrates emissions exceeding 500 ppm (40 CFR 62.16718(a)(6)(v)), the MSW landfill would be required to install a GCCS according to the schedule in section V.B of this preamble and Table 1 to 40 CFR part 62, subpart OOO.

2. Gas Collection System Monitoring

The EPA requires that the LFG collection system must be equipped with a sampling or access port and the owner or operator must periodically monitor gauge pressure in the gas collection header, monitor nitrogen or oxygen content in the LFG, and monitor temperature of the LFG (40 CFR 62.16722(a)).

3. Flare Monitoring

The EPA requires that, if a flare is used, the owner or operator must monitor the flare using a heat sensing device that indicates presence of a flame and a device that records flow to the flare and any bypass lines (40 CFR 62.16722(c)).

4. Control Device Testing and Monitoring

The EPA requires that, if an enclosed control device is used, the owner or operator must conduct an initial performance test (40 CFR 62.16714(c)). The owner or operator must then operate the device as required by the manufacturer's specifications, install a temperature monitoring device, and install a device that records flow to the control device and any bypass lines (40 CFR 62.16722(b)). A temperature monitoring device is not required for boilers or process heaters with a design heat capacity of 44 megawatts or greater (40 CFR 62.16722(b)(1)).

E. What are the final recordkeeping and reporting requirements?

The EPA requires that owners or operators must retain records of all required monitor readings (40 CFR 62.16726). Owners or operators must submit certain required performance test reports, NMOC emission rate reports, and annual reports documenting compliance and any deviations from the operating standards in the Federal plan (40 CFR 62.16724). As noted in section V.C of this preamble, the Federal plan adds the opt-in provisions consistent with the MSW Landfills EG. Corresponding recordkeeping and reporting provisions appear in 40 CFR 62.16724(h), (k), and (q) and 62.16726(e). Also as noted in section V.C of this preamble, the Federal plan applies a technical correction to the compliance provisions and the corresponding reporting requirement in the reporting section. Those reporting corrections appear in this Federal plan

at 40 CFR 62.16724(h)(7) and ensure that the owner or operator conducts a corrective action analysis, develops an implementation schedule, and reports corrective action(s) to address not only positive pressure, but also elevated temperature.

All required reports must be submitted through the EPA's CDX using the Compliance and Emissions Data Reporting Interface (CEDRI) (40 CFR 62.16724(j)). Owners or operators are allowed to maintain electronic copies of the records in lieu of hardcopies to satisfy Federal recordkeeping requirements.

The requirement to submit performance test data electronically to the EPA would apply only to those performance tests conducted using test methods that are supported by the Electronic Reporting Tool (ERT). A listing of the pollutants and test methods supported by the ERT is available at: *https://www3.epa.gov/ttn/chief/ert/ert_info.html.* When the EPA adds new methods to the ERT, a notice will be sent out through the Clearinghouse for Inventories and Emissions Factors (CHIEF) Listserv (*https://www.epa.gov/airemissions-inventories/emissionsinventory-listservs*) and a notice of availability will be added to the ERT website. The EPA encourages landfill owners or operators to check the ERT website regularly for up-to-date information on methods supported by the ERT.

VI. Implementation of the Federal Plan and Delegation

A. Background of Authority

Under CAA section 111(d) and the EPA's regulations implementing that section, the EPA adopts EG that are applicable to existing MSW landfills. These EG are implemented when the EPA approves a state or tribal plan or adopts a Federal plan that implements and enforces the EG. As discussed in section III of this preamble, this final action regulates existing MSW landfills in states or Indian country that do not have fully approved plans in effect to implement the EG.

Congress has determined that the primary responsibility for air pollution prevention and control rests with state, tribal, and local agencies. See CAA section 101(a)(3). Consistent with that overall determination, Congress established CAA section 111(d) with the intent that state, tribal, and local agencies take the primary responsibility for ensuring, with regard to existing sources, that the standards of performance and other requirements contemplated by that section, and implemented by the EPA through its general regulations implementing that section and its particular EGs, are achieved. Also, in CAA section 111(d) Congress explicitly required that the EPA establish procedures that are like those under CAA section 110(c) for state implementation plans. Although Congress required the EPA to propose and promulgate a Federal plan for states and tribes that fail to submit approvable plans on time, states and tribes may submit plans after promulgation of this Federal plan. The EPA strongly encourages states and tribes that are unable to submit approvable plans to request delegation of the Federal plan so that they can have primary responsibility for implementing the 2016 MSW Landfills EG, consistent with the intent of Congress.

The preferred outcome under the statute and the regulations results when the state, tribal, and local agencies implement an EPA-approved state or tribal plan because state, tribal, and local agencies not only have the responsibility to implement the 2016 MSW Landfills EG, but also have the practical knowledge and enforcement resources critical to achieving the highest rate of compliance. In cases where states are unable to develop and submit approvable state or tribal plans, it is still preferable for the state, tribal, and local agencies to be the implementing agency. For these reasons, the EPA will do all that it can to expedite delegation of the Federal plan to state, tribal, and local agencies, whenever possible, in cases where states or tribes are unable to develop and submit approvable state or tribal plans. The EPA will also continue to review and approve state or tribal plans after promulgation of this Federal plan.

B. Mechanisms for Transferring Authority

There are two mechanisms for transferring implementation authority to state, tribal, and local agencies: (1) The EPA approves of a state plan after the Federal plan is in effect; and (2) if a state does not submit or obtain approval of its own plan, the EPA provides delegation to a state or tribe with the authority to implement certain portions of this Federal plan to the extent appropriate and if allowed by state law. Both options are described in more detail below.

1. Federal Plan Becomes Effective Prior to Approval of a State Plan

After MSW landfills in a state become subject to the Federal plan, the state or tribal agency may still adopt and submit a state or tribal plan to the EPA. If the EPA determines that the plan is as protective as the 2016 MSW Landfills EG, the EPA will approve the state or tribal plan. If the EPA determines that the plan is not as protective as the 2016 MSW Landfills EG, the EPA will approve the portions of the plan that are consistent with the 2016 MSW Landfills EG. If a state or tribal plan is approved in part, portions of the Federal plan will apply to the designated MSW landfills in lieu of the disapproved portions of the state or tribal plan until the state or tribe addresses the deficiencies in the plan and the revised plan is approved by the EPA. Prior to any disapproval, the EPA will work with states and tribes in an attempt to reconcile areas of the plan that remain inconsistent with the EG.

Upon the effective date of a state or tribal plan, the Federal plan will no longer apply to MSW landfills covered by such a plan and the state or tribe would implement and enforce the state plan in lieu of the Federal plan. When an EPA Regional office approves a state or tribal plan, it will amend the appropriate subpart of 40 CFR part 62 to indicate such approval.

2. State or Tribe Taking Delegation of the Federal Plan

The EPA, in its discretion, may delegate to states or tribes the authority to implement this Federal plan. As discussed above, the EPA has concluded that it is advantageous and the best use of resources for states or tribes to agree to undertake, on the EPA's behalf, administrative and substantive roles in implementing the Federal plan to the extent appropriate and where authorized by Federal, state, or tribal law. If a state or tribe requests delegation, the EPA will generally delegate the entire Federal plan to the state or tribe. These functions include administration and oversight of compliance, reporting, and recordkeeping requirements, MSW landfill inspections, and preparation of draft notices of violation, but will not include any authorities retained by the EPA. The EPA and agencies that have taken delegation will have responsibility for bringing enforcement actions against sources violating Federal plan provisions.

C. Implementing Authority

The EPA Regional Administrators have been delegated the authority for implementing the MSW Landfills Federal Plan. All reports required by the Federal plan should be submitted to the appropriate Regional Administrator. Table 3 of this preamble lists the

addresses for the EPA Regional offices and the states they cover.

D. Delegation of the Federal Plan and Retained Authorities

If a state or tribe intends to take delegation of the Federal plan, the state or tribe must submit a written request for delegation of authority to the appropriate EPA Regional office (see Table 3). The state or tribe must explain how it meets the criteria for delegation. See, *Good Practices Manual for Delegation of NSPS and NESHAP* (U.S. EPA, February 1983), which is available in the docket for this action. The letter requesting delegation of authority to implement the Federal plan must: (1) Demonstrate that the state or tribe has adequate resources, as well as the legal authority, to administer and enforce the program; (2) include an inventory of designated MSW landfills, which includes those that have ceased operation, but have not been dismantled or rendered inoperable, and an inventory of the designated units' air emissions; (3) certify that a public hearing was held on the state or tribal delegation request; and (4) include a memorandum of agreement between the state or tribe and the EPA that sets forth the terms and conditions of the delegation, the effective date of the agreement, and the mechanism to transfer authority. Upon signature of the agreement, the appropriate EPA Regional office will publish an approval document in the **Federal Register**, thereby incorporating the delegation of authority into the appropriate subpart of 40 CFR part 62.

If authority is not delegated to a state or tribe, the EPA will implement the Federal plan. Also, if a state or tribe fails to properly implement a delegated portion of the Federal plan, the EPA will assume direct implementation and enforcement of that portion. The EPA will continue to hold enforcement authority along with the state or tribe even when the Agency has received delegation of the Federal plan. In all cases where the Federal plan is delegated, the EPA will retain and will not transfer authority to a state or tribe to approve the following items promulgated in 40 CFR 62.16710(b)): (1) Approval of alternative methods to determine the site-specific NMOC concentration or a site-specific methane generation rate constant (k); (2) alternative emission standards; (3) major alternatives to test methods and monitoring; and (4) waivers of recordkeeping. Major alternatives to test methods or to monitoring are modifications made to a federally enforceable test method or to a Federal monitoring requirement. These changes would involve the use of unproven technology or procedures or an entirely new method, which is sometimes necessary when the required test method or monitoring requirement is unsuitable.

Any MSW landfill owner or operator who wishes to petition the EPA for an alternative requirement to those in 40 CFR 62.16710(b) should submit a request to the appropriate Regional Administrator with a copy sent to the appropriate state.

VII. Title V Operating Permits

A. Title V Requirements for Existing MSW Landfills

Existing MSW landfills with design capacities less than 2.5 million Mg or 2.5 million m^3 are not required to have a title V operating permit, unless they are a major source or are subject to title V (part 70 or part 71) for some other reason (*e.g.,* subject to a CAA section 112 national emission standards for hazardous air pollutants or to another CAA section 111 NSPS). All existing MSW landfills with design capacities equal to or greater than 2.5 million Mg and 2.5 million m^3 must have a title V operating permit. Existing MSW landfills that are not currently subject to title V permitting because their design capacity is less than 2.5 million Mg or 2.5 million m^3 may trigger the requirement to apply for a title V permit in the future if the landfill's design capacity increases to equal or exceed 2.5 million Mg and 2.5 million m^3. Such sources, newly subject to the requirement to obtain a title V permit for operating the MSW landfill at or above the 2.5 million Mg or 2.5 million m^3 capacity, become subject to the title V program 90 days after the effective date of this Federal plan, even if the design capacity report is submitted prior to that date. This date that triggers title V applicability is consistent with the 2016 MSW Landfills EG. The requirements of a Federal plan are applicable requirements for title V sources covered by a Federal plan. Additional information for filing a timely title V application should be obtained at the permitting authority. See 40 CFR 70.5(a)(1)(i) or 71.5(a)(1)(i).

An MSW landfill that is closed and is no longer subject to title V as a result of this Federal plan may remain subject to title V permitting requirements for another reason or reasons. See 40 CFR 62.16711(e) and 40 CFR 70.3 or 71.3. In such circumstances, the landfill would be required to continue operating in compliance with a title V permit.

B. Title V and Delegation of Federal Plan

Issuance of a title V permit is not equivalent to the approval of a state or tribal plan or delegation of a Federal plan. Legally, delegation of a standard or requirement results in a delegated state or tribe standing in for the EPA as a matter of Federal law. This means that obligations a source may have to the EPA under a federally promulgated standard become obligations to the state or tribal agency (except for functions that the EPA retains for itself) upon delegation.[4] Although states or tribes may have the authority under their respective laws to incorporate CAA section 111 requirements into their title V permits, and implement and enforce these requirements in those permits without first taking delegation of the CAA section 111 Federal plan, the state or tribe is not standing in for the EPA as a matter of Federal law in this situation. Where a delegation of a CAA section 111 Federal plan is granted to a state or tribal agency, obligations that a source has to retain functions under the Federal plan still remain after a title V permit is issued to the source. As a result, the EPA maintains that an approved 40 CFR part 70 operating permits program cannot be used as a mechanism to transfer the authority to implement and enforce the Federal plan from the EPA to a state or tribe.

A state or tribe may have the authority under state or tribal law to incorporate CAA section 111 requirements into its title V permits and implement and enforce these requirements in that context without first taking delegation of the CAA section 111 Federal plan.[5] Some states or tribes, however, may not be able to implement and enforce a CAA section 111 standard in a title V permit under state or tribal law until the CAA section 111 standard has been delegated. In these situations, a state or tribe should not issue a 40 CFR part 70 permit to a source subject to a Federal plan before taking delegation of the CAA section 111 Federal plan.

However, if a state or tribe can provide an attorney general's (AG's) opinion delineating its authority to incorporate CAA section 111

[4] If the Administrator chooses to retain certain authorities under a standard, those authorities cannot be delegated, *e.g.,* alternative methods of demonstrating compliance.

[5] The EPA interprets the phrase ''assure compliance'' in CAA section 502(b)(5)(A) to mean that permitting authorities will implement and enforce each applicable standard, regulation, or requirement which must be included in the title V permits that the permitting authority issues. See definition of ''applicable requirements'' in 40 CFR 70.2. See also 40 CFR 70.4(b)(3)(i) and 70.6(a)(1).

requirements into its title V permits, and then implement and enforce these requirements through its title V permits without first taking delegation of the requirements, then a state or tribe does not need to take delegation of the CAA section 111 requirements for the purposes of title V permitting.[6] In practical terms, without approval of a state or tribal plan, or an adequate AG's opinion, states and tribes with approved 40 CFR part 70 permitting programs open themselves up to potential questions regarding their authority to issue permits containing CAA section 111 requirements and to assure compliance with these requirements. Such questions could lead to the issuance of a notice of deficiency for a state's or tribe's 40 CFR part 70 program. As a result, prior to a state or tribal permitting authority drafting a 40 CFR part 70 permit for a source subject to a CAA section 111 Federal plan, the state or tribe, the EPA Regional office, and source in question are advised to ensure that delegation of the relevant Federal plan has taken place or that the permitting authority has provided to the EPA Regional office an adequate AG's opinion.

In addition, if a permitting authority chooses to rely on an AG's opinion and not take delegation of a Federal plan, a CAA section 111 source subject to the Federal plan in that state must simultaneously submit to both the EPA and the state or tribe all reports required by the standard to be submitted to the EPA. Given that these reports are necessary to implement and enforce the CAA section 111 requirements when they are included in the title V permits, the permitting authority needs to receive these reports at the same time as the EPA.

In the situation where a permitting authority chooses to rely on an AG's opinion and not take delegation of a Federal plan, the EPA Regional offices will be responsible for implementing and enforcing CAA section 111 requirements outside of any title V permits. Moreover, in this situation, the EPA Regional offices will continue to be responsible for conducting any other administrative functions required under this Federal plan or any other CAA section 111 Federal plan. See, *e.g.,* section V.B of this preamble titled ''What are the final compliance schedules?''

It is important to note that the EPA is not using its authority under 40 CFR 70.4(i)(3) to request that all states and tribes that do not take delegation of this Federal plan submit supplemental AG's opinions currently. However, the EPA Regional offices must request, and permitting authorities must provide, such opinions when the EPA questions a state's or tribe's authority to incorporate CAA section 111 requirements into a title V permit and implement and enforce these requirements in that context without delegation.

VIII. Incorporation by Reference

In accordance with the requirements of 1 CFR 51.5, we are finalizing regulatory text in 40 CFR 62.16722(i) that includes the IBR of ASTM D6522–11—Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers (Approved December 1, 2011), as an alternative for determining oxygen for wellhead standards in 40 CFR 62.16722(a)(2)(ii) and 62.16722(a)(2)(iii)(B). For this test method, a gas sample is continuously extracted from a duct and conveyed to a portable analyzer for determination of nitrogen oxides, carbon monoxide, and oxygen gas concentrations using electrochemical cells. Analyzer design specifications, performance specifications, and test procedures are provided to ensure reliable data. This method is an alternative to EPA methods and is consistent with the methods already allowed under the MSW Landfills NSPS (40 CFR part 60, subpart XXX) and MSW Landfills EG (40 CFR part 60, subpart Cf). The ASTM standard is available from the ASTM, 100 Barr Harbor Drive, Post Office Box C700, West Conshohocken, PA 19428–2959. See *http://www.astm.org.* This IBR has been approved by the Office of the Federal Register and the method is federally enforceable under the CAA as of the effective date of this final rulemaking.

IX. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB previously reviewed and approved the information collection activities contained in the 2016 MSW Landfills EG and assigned OMB control number 2060–0720. This action simply establishes the MSW Landfills Federal Plan to implement the 2016 MSW Landfills EG for those states that do not have a state plan implementing the EG and, therefore, the information collection burden for landfills regulated under this Federal Plan are already accounted for within the information collection activities approved under OMB control number 2060–0720.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small MSW landfills. The Agency has determined that up to 15 small entities, representing approximately 13 percent of the total number of small entities subject to the Federal plan, may experience an impact of greater than 3 percent of sales or revenues. Details of this analysis are presented in the memorandum, *Small Entity Screening Assessment for Proposed Federal Plan for Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills,* which is available in the docket for this action. Although Oklahoma submitted corrections to the inventory of MSW landfills during the comment period, the changes were not expected to significantly affect the small entity screening assessment; therefore, a new analysis was not performed. More details of the general economic analysis of the EG, which this action implements, are available in the docket for the 2016 MSW Landfills EG (Docket ID Item No. EPA–HQ–OAR–2014–0451–0225).

As explained in the preamble to the proposed rule (84 FR 43755, August 22, 2019), more details about outreach to small businesses conducted during the development of the 2016 MSW Landfills EG, which this action implements, are

[6] It is important to note that an AG's opinion submitted at the time of initial title V program approval is sufficient if it demonstrates that a state, local authority, territory, or tribe has adequate authority to incorporate CAA section 111 requirements into its title V permits and to implement and enforce these requirements through its title V permits without delegation.

available in Docket ID No. EPA–HQ–OAR–2014–0451.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538. This action implements mandates specifically and explicitly set forth in 40 CFR 60.27 without the exercise of any policy discretion by the EPA.

We note, however, that the EG may affect small governments because small governments operate MSW landfills (80 FR 52146, August 27, 2015). This action implements the promulgated EG. In developing the final 2016 MSW Landfills EG, the EPA consulted with small governments pursuant to a plan established under section 203 of the UMRA to address impacts of regulatory requirements in the rule that might significantly or uniquely affect small governments. The EPA also held meetings as discussed in section IX.F of this preamble.

E. Executive Order 13132: Federalism

The EPA has concluded that this action may have federalism implications, because the rule imposes substantial direct compliance costs on state or local governments, and the Federal government will not provide the funds necessary to pay those costs. The EPA provided a federalism summary impact statement for the 2016 MSW Landfills EG, as follows: The EPA consulted with state and local officials early in the process of developing the 2016 MSW Landfills EG to permit them to have meaningful and timely input into its development. In developing the regulatory options reflected in the proposed and final 2016 MSW Landfills EG, the EPA consulted with eight national organizations representing state and local elected officials. Additionally, the Environmental Council of the States, the National Association of Clean Air Agencies, and the Association of State and Territorial Solid Waste Management Officials participated in preproposal briefings. Finally, in addition to these associations, over 140 officials representing state and local governments across the nation participated in at least one of three preproposal briefings in the fall of 2013 (September 10, 2013, November 7, 2013, and November 14, 2013), which is summarized in the docket for the 2016 MSW Landfills EG (Docket ID Item No. EPA–HQ–OAR–2014–0451–0013). The EPA received comments on the 2016 MSW Landfills EG from over 40 entities representing state and local governments. The EPA conducted an additional federalism outreach meeting on April 15, 2015.

The principal intergovernmental concerns raised during the preproposal consultations, as well as during the proposed rule's public comment period, include: (1) Implementation concerns associated with shortening of GCCS installation and/or expansion timeframes; (2) concerns regarding significant lowering of the design capacity or emission thresholds; (3) the need for clarifications associated with wellhead operating parameters; and (4) the need for consistent, clear, and rigorous surface monitoring requirements. In response to these comments and based upon the available data, the EPA decided not to adjust the design capacity or significantly lower the emission threshold. The EPA also decided not to adjust the time allotted for installation of the GCCS or expansion of the wellfield. In the proposed MSW Landfills EG (80 FR 52121, August 27, 2015), the EPA highlighted specific concerns raised by commenters, which included state agencies as well as landfill owners or operators, about the interaction between shortened lag times and design plan approvals, costs, and safety concerns associated with reduced lag times and the need for flexibility for lag time adjustments. The EPA adjusted wellhead operating parameters to limit corrective action requirements to negative pressure and temperature. The EPA also acknowledged concerns about wellhead operating parameters in 80 FR 52121 (August 27, 2015) and considered public comments in favor of and against retention of the parameters.

A complete list of the comments from state and local governments was provided to OMB and was placed in the 2016 MSW Landfills EG Docket (*Final Report of the Small Business Advocacy Review Panel on EPA's Planned Proposed Rules Standards of Performance for Municipal Solid Waste Landfills and Review of Emissions Guidelines for Municipal Solid Waste Landfills,* Docket ID Item No. EPA–HQ–OAR–2014–0451–0139). In addition, the detailed response to comments from these entities is contained in the EPA's Response to Comments document for the 2016 MSW Landfills EG (Docket ID Item No. EPA–HQ–OAR–2014–0451–0229). As required by section 8(a) of Executive Order 13132, the EPA included a certification from its Federalism official stating that the EPA had met the Executive Order's requirements in a meaningful and timely manner when it sent the draft of the 2016 MSW Landfills EG to OMB for review pursuant to Executive Order 12866. A copy of the certification is included in the record for the 2016 MSW Landfills EG (*Outreach under Executive Order 13132 for MSW Landfills,* Docket ID Item Nos. EPA–HQ–OAR–2014–0451–0013 and EPA–HQ–OAR–2014–0451–0100).

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action has tribal implications as specified in Executive Order 13175. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments nor preempt tribal law. The database used to estimate impacts of the 2016 MSW Landfills EG, identified one tribe, the Salt River Pima-Maricopa Indian Community, which owns three landfills potentially subject to this Federal plan. One of these landfills is open, the Salt River Landfill, and is already controlling emissions under the current NSPS/EG framework, so while subject to this subpart, the costs of this rule are not substantial. Two other landfills located in this tribe are closed and anticipated to meet the definition of the closed landfill subcategory. One of the closed landfills, the Tri Cities Landfill, is already controlling emissions under the current NSPS/EG framework and will not incur substantial additional compliance costs under the Federal plan. The other landfill, North Center Street Landfill, is not estimated to install controls under the Federal plan. The EPA offered consultation and coordination with Indian tribes on this action to permit them to have meaningful and timely input into its development. However, no consultation was requested.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it implements a previously promulgated Federal standard.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 because it is not a

significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA has decided to use voluntary consensus standard ASTM D6522–11, ''Standard Test Method for the Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers,'' as an acceptable alternative to EPA Method 3A of appendix A–2 of part 60 when used at the wellhead before combustion. It is advisable to know the flammability and check the lower explosive limit of the flue gas constituents prior to sampling, in order to avoid undesired ignition of the gas. The results of ASTM D6522–11 may be used to determine nitrogen oxides and carbon monoxide emission concentrations from natural gas combustion at stationary sources. This test method may also be used to monitor emissions during short-term emission tests or periodically in order to optimize process operation for nitrogen oxides and carbon monoxide control. The EPA's review is documented in the memorandum, *Voluntary Consensus Standard Results for Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills, 2016,* which is available in the docket for the 2016 MSW Landfills EG (Docket ID Item No. EPA–HQ–OAR–2014–0451–0206). In this rule, the EPA is finalizing regulatory text for 40 CFR part 62, subpart OOO, that includes IBR in accordance with requirements of 1 CFR 51.5. Specifically, the EPA is incorporating by reference ASTM D6522–11. See section VIII. of this preamble for information on the availability of this material.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The EPA has determined that this action increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority, low-income, or indigenous populations. To the extent that any minority, low-income, or indigenous subpopulation is disproportionately impacted by LFG emissions due to the proximity of their homes to sources of these emissions, that subpopulation also stands to see increased environmental and health benefit from the emission reductions called for by this action. The results of the demographic analysis are presented in the *EJ Screening Report for Municipal Solid Waste Landfills, July 2016,* a copy of which is available in the 2016 MSW Landfills EG Docket (Docket ID Item No. EPA–HQ–OAR–2014–0451–0223).

K. Congressional Review Act (CRA)

This action is subject to the CRA and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Clean Air Act Section 307(d)

This final rule is subject to the provisions of CAA section 307(d). CAA section 307(d)(1)(C) provides that CAA section 307(d) applies to, among other things, ''the promulgation or revision of any standard of performance under section 7411 of this title.'' 42 U.S.C. 7407(d)(1)(C). This final rule promulgates a Federal plan, which includes promulgation of a standard of performance, pursuant to the authority of CAA section 111(d). The Agency has complied with procedural requirements of CAA section 307(d) during the course of this rulemaking.

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedures, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Michael S. Regan,

Administrator.

For the reasons set forth in the preamble, the Environmental Protection Agency amends 40 CFR part 62 as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

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

Subpart A—General Provisions

■ 2. Section 62.13 is amended by:

■ a. Revising paragraph (b); and

■ b. Adding paragraphs (f) through (j).

The revisions and additions read as follows:

§ 62.13 Federal plans.

* * * * *

(b) The substantive requirements of the municipal solid waste landfills Federal plan that implements 40 CFR part 60, subpart Cc of this chapter, are contained in subpart GGG of this part. These requirements include emission limits, compliance schedules, testing, monitoring, and reporting and recordkeeping requirements. After June 21, 2021, per paragraph (j) of this section, the substantive requirements of the municipal solid waste landfills Federal plan are contained in subpart OOO of this part and owners and operators of municipal solid waste landfills must comply with subpart OOO of this part or a state/tribal plan implementing 40 CFR part 60, subpart Cf of this chapter, instead of subpart GGG of this part.

* * * * *

(f) [Reserved]

(g) The substantive requirements of the sewage sludge incineration units Federal plan are contained in subpart LLL of this part. These requirements include emission limits, compliance schedules, testing, monitoring, and reporting and recordkeeping requirements.

(h) [Reserved]

(i) [Reserved]

(j) The substantive requirements of the municipal solid waste landfills Federal plan that implements 40 CFR part 60, subpart Cf of this chapter, are contained in subpart OOO of this part. These requirements include emission limits, compliance schedules, testing, monitoring, and reporting and recordkeeping requirements.

■ 3. Amend § 62.1115 by adding paragraph (b)(2) to read as follows:

Subpart F—California

§ 62.1115 Identification of sources.

* * * * *

(b) * * *

(2) The requirements of §§ 60.34f(c), 60.36f(a)(5), 60.37f(a)(2) and (3), 60.38f(k), and 60.39f(e)(2) and (5) of this chapter are not met since the plan does not provide for wellhead operational standards, wellhead monitoring, corrective action and recordkeeping related to temperature. Municipal solid waste landfills subject to the plan in § 62.1100(b)(7) must also implement the provisions of §§ 62.16716(c),

62.16720(a)(4), 62.16722(a)(2) and (3), 62.16724(k), and 62.16726(e)(2) and (5).

* * * * *

■ 4. Part 62 is amended by adding subpart OOO, consisting of §§ 62.16710 through 62.16730, to read as follows:

Subpart OOO—Federal Plan Requirements for Municipal Solid Waste Landfills That Commenced Construction On or Before July 17, 2014 and Have Not Been Modified or Reconstructed Since July 17, 2014

Sec

62.16710 Scope and delegated authorities.
62.16711 Designated facilities.
62.16712 Compliance schedule and increments of progress.
62.16714 Standards for municipal solid waste landfill emissions.
62.16716 Operational standards for collection and control systems.
62.16718 Test methods and procedures.
62.16720 Compliance provisions.
62.16722 Monitoring of operations.
62.16724 Reporting guidelines.
62.16726 Recordkeeping guidelines.
62.16728 Specifications for active collection systems.
62.16730 Definitions.

§ 62.16710 Scope and delegated authorities.

This subpart establishes emission control requirements and compliance schedules for the control of designated pollutants from certain designated municipal solid waste (MSW) landfills in accordance with section 111(d) of the Clean Air Act and subpart B of 40 CFR part 60.

(a) If you own or operate a designated facility as described in § 62.16711, then you must comply with this subpart.

(b) The following authorities will not be delegated to state, local, or tribal agencies:

(1) Approval of alternative methods to determine the site-specific nonmethane organic compounds (NMOC) concentration or a site-specific methane generation rate constant (k).

(2) Alternative emission standards.

(3) Major alternatives to test methods. Major alternatives to test methods or to monitoring are modifications made to a federally enforceable test method or to a Federal monitoring requirement. These changes may involve the use of unproven technology or modified procedures or an entirely new method.

(4) Waivers of recordkeeping.

§ 62.16711 Designated facilities.

(a) The designated facility to which this subpart applies is each municipal solid waste landfill in each state, protectorate, and portion of Indian country that meets the conditions of paragraphs (a)(1) and (2) of this section, except for landfills exempted by paragraphs (b) and (c) of this section.

(1) The municipal solid waste landfill commenced construction, reconstruction, or modification on or before July 17, 2014.

(2) The municipal solid waste landfill has accepted waste at any time since November 8, 1987, or the landfill has additional capacity for future waste deposition.

(b) A municipal solid waste landfill regulated by an EPA-approved and currently effective state or tribal plan implementing 40 CFR 60, subpart Cf, is not subject to the requirements of this subpart.

(c) A municipal solid waste landfill located in a state, locality, or portion of Indian country that submitted a negative declaration letter is not subject to the requirements of this subpart other than the requirements in the definition of design capacity in § 62.16730 to recalculate the site-specific density annually and in § 62.16724(b) to submit an amended design capacity report in the event that the recalculated design capacity is equal to or greater than 2.5 million megagrams and 2.5 million cubic meters. However, if the existing municipal solid waste landfill already has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, then it is subject to the requirements of this Federal plan.

(d) Physical or operational changes made to an existing MSW landfill solely to comply with an emission guideline implemented by a state or Federal plan are not considered a modification or reconstruction and would not subject an existing MSW landfill to the requirements of 40 CFR 60, subpart XXX. Landfills that commence construction, modification, or reconstruction after July 17, 2014, are subject to 40 CFR part 60, subpart XXX.

(e) For purposes of obtaining an operating permit under title V of the Clean Air Act, the owner or operator of an MSW landfill subject to this subpart with a design capacity less than 2.5 million megagrams or 2.5 million cubic meters is not subject to the requirement to obtain an operating permit for the landfill under 40 CFR part 70 or 71, unless the landfill is otherwise subject to either 40 CFR part 70 or 71. For purposes of submitting a timely application for an operating permit under 40 CFR part 70 or 71, the owner or operator of an MSW landfill subject to this subpart with a design capacity greater than or equal to 2.5 million megagrams and 2.5 million cubic meters, and not otherwise subject to either 40 CFR part 70 or 71, becomes subject to the requirements of § 70.5(a)(1)(i) or 71.5(a)(1)(i) of this chapter 90 days after the effective date of such CAA section 111(d) program approval, even if the design capacity report is submitted earlier.

(f) When an MSW landfill subject to this subpart is closed as defined in this subpart, the owner or operator is no longer subject to the requirement to maintain an operating permit under 40 CFR part 70 or 71 for the landfill if the landfill is not otherwise subject to the requirements of either 40 CFR part 70 or 71 and if either of the following conditions are met:

(1) The landfill was never subject to the requirement to install and operate a gas collection and control system under § 62.16714; or

(2) The landfill meets the conditions for control system removal specified in § 62.16714(f).

(g) When an MSW landfill subject to this subpart is in the closed landfill subcategory, the owner or operator is not subject to the following reports of this subpart, provided the owner or operator submitted these reports under the provisions of 40 CFR part 60, subpart WWW; subpart GGG of this part; or a state plan implementing 40 CFR part 60, subpart Cc, on or before July 17, 2014:

(1) Initial design capacity report specified in § 62.16724(a).

(2) Initial or subsequent NMOC emission rate report specified in § 62.16724(c), provided that the most recent NMOC emission rate report indicated the NMOC emissions were below 50 megagrams per year.

(3) Collection and control system design plan specified in § 62.16724(d).

(4) Closure report specified in § 62.16724(f).

(5) Equipment removal report specified in § 62.16724(g).

(6) Initial annual report specified in § 62.16724(h).

(7) Initial performance test report in § 62.16724(i).

(h) When an MSW landfill subject to this subpart is a legacy controlled landfill, as defined in § 62.16730, the owner or operator is not subject to the following reports of this subpart, provided the owner or operator submitted these reports under 40 CFR part 60, subpart WWW; subpart GGG of this part; or a state plan implementing 40 CFR part 60, subpart Cc on or before June 21, 2021.

(1) Initial design capacity report specified in § 62.16724(a).

(2) Initial or subsequent NMOC emission rate report specified in § 62.16724(c).

(3) Collection and control system design plan specified in § 62.16724(d).

(5) Initial annual report specified in § 62.16724(h).

(4) Initial performance test report in § 62.16724(i).

§ 62.16712 Compliance schedule and increments of progress.

Planning, awarding of contracts, installing, and starting up MSW landfill air emission collection and control equipment that is capable of meeting the emission standards of § 62.16714 must be completed within 30 months after the date an NMOC emission rate report shows NMOC emissions equal or exceed 34 megagrams per year; or within 30 months after the date of the most recent NMOC emission rate report that shows NMOC emissions equal or exceed 34 megagrams per year, if Tier 4 surface emissions monitoring (SEM) shows a surface emission concentration of 500 parts per million methane or greater. Legacy controlled landfills who have not yet reached increment 5 (full compliance) must demonstrate compliance with any remaining increments of progress on this schedule. However, they must use the date of their first report submitted under 40 CFR part 60, subpart WWW, 40 CFR part 62, subpart GGG or a state plan implementing 40 CFR part 60, subpart Cc showing NMOC emissions at or above 50 megagrams. The owner or operator must follow the requirements in paragraphs (a) through (d) of this section.

(a) *Increments of progress.* The owner or operator of a designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a NMOC emission rate greater than or equal to 34 megagrams per year must achieve the increments of progress specified in paragraphs (a)(1) through (5) of this section to install air pollution control devices to meet the emission standards specified in § 62.16714(b) and (c) of this subpart. Refer to § 62.16730 for a definition of each increment of progress.

(1) *Submit control plan.* Submit a final control plan (collection and control system design plan) according to the requirements of § 62.16724(d).

(2) *Award contract(s).* Award contract(s) to initiate on-site construction or initiate on-site installation of emission collection and/or control equipment.

(3) *Initiate on-site construction.* Initiate on-site construction or initiate on-site installation of emission collection and/or control equipment as described in the EPA-approved final control plan.

(4) *Complete on-site construction.* Complete on-site construction and installation of emission collection and/or control equipment.

(5) *Achieve final compliance.* Complete construction in accordance with the design specified in the EPA-approved final control plan and connect the landfill gas collection system and air pollution control equipment such that they are fully operating. The initial performance test must be conducted within 180 days after the date the facility is required to achieve final compliance. For a legacy controlled landfill, the initial or most recent performance test conducted to comply with 40 CFR part 60, subpart WWW, subpart GGG of this part, or a state plan implementing 40 CFR part 60, subpart Cc is sufficient for compliance with this part. The test report does not have to be resubmitted.

(b) *Compliance date.* For each designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a NMOC emission rate greater than or equal to 34 megagrams per year (50 megagrams per year for closed landfill subcategory), planning, awarding of contracts, and installation of municipal solid waste landfill air emission collection and control equipment capable of meeting the standards in § 62.16714(b) and (c) must be accomplished within 30 months after the date the initial emission rate report (or the annual emission rate report) first shows that the NMOC emission rate equals or exceeds 34 megagrams per year (50 megagrams per year for closed landfill subcategory), except as provided in § 62.16712(c)(3).

(c) *Compliance schedules.* The owner or operator of a designated facility that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and a NMOC emission rate greater than or equal to 34 megagrams per year (50 megagrams per year for closed landfill subcategory) must achieve the increments of progress specified in paragraphs (a)(1) through (5) of this section according to the schedule specified in paragraph (c)(1), (2), or (3) of this section.

(1) *Achieving Increments of Progress.* The owner or operator of a designated facility must achieve the increments of progress according to the schedule in table 1 of this subpart. Once this subpart becomes effective, any designated facility to which this subpart applies will remain subject to the schedule in table 1 if a subsequently approved state or tribal plan contains a less stringent schedule, (*i.e.,* a schedule that provides more time to comply with increments 1, 4 and/or 5 than does this Federal plan).

(2) *Tier 4.* The owner or operator of a designated facility that is using the Tier 4 procedures specified in § 62.16718(a)(6) must achieve the increments of progress according to the schedule in table 1 of this subpart.

(d) *Alternative dates.* For designated facilities that are subject to the schedule requirements of paragraph (c)(1) of this section, the owner or operator (or the state or tribal air pollution control authority) may submit to the appropriate EPA Regional Office for approval alternative dates for achieving increments 2 and 3.

§ 62.16714 Standards for municipal solid waste landfill emissions.

(a) *Landfills.* Each owner or operator of an MSW landfill having a design capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume must collect and control MSW landfill emissions at each MSW landfill that meets the following conditions:

(1) *Waste acceptance date.* The landfill has accepted waste at any time since November 8, 1987, or has additional design capacity available for future waste deposition.

(2) *Construction commencement date.* The landfill commenced construction, reconstruction, or modification on or before July 17, 2014.

(3) *NMOC emission rate.* The landfill has an NMOC emission rate greater than or equal to 34 megagrams per year or Tier 4 SEM shows a surface emission concentration of 500 parts per million methane or greater.

(4) *Closed subcategory.* The landfill in the closed landfill subcategory and has an NMOC emission rate greater than or equal to 50 megagrams per year.

(b) *Collection system.* Install a gas collection and control system meeting the requirements in paragraphs (b)(1) through (3) and (c) of this section at each MSW landfill meeting the conditions in paragraph (a) of this section.

(1) *Collection system.* Install and start up a collection and control system that captures the gas generated within the landfill within 30 months after:

(i) The first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in § 62.16724(d)(4), or

(ii) The first annual report in which the NMOC emission rate equals or exceeds 50 megagrams per year submitted under previously applicable

regulations 40 CFR part 60, subpart WWW, 40 CFR part 62, subpart GGG, or a state plan implementing 40 CFR part 60, subpart Cc for a legacy controlled landfill or landfill in the closed landfill subcategory, or

(iii) The most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 SEM shows a surface methane emission concentration of 500 parts per million methane or greater as specified in § 62.16724 (d)(4)(iii).

(2) *Active.* An active collection system must:

(i) Be designed to handle the maximum expected gas flow rate from the entire area of the landfill that warrants control over the intended use period of the gas control system equipment.

(ii) Collect gas from each area, cell, or group of cells in the landfill in which the initial solid waste has been placed for a period of 5 years or more if active; or 2 years or more if closed or at final grade.

(iii) Collect gas at a sufficient extraction rate.

(iv) Be designed to minimize off-site migration of subsurface gas.

(3) *Passive.* A passive collection system must:

(i) Comply with the provisions specified in paragraphs (b)(2)(i), (ii), and (iv) of this section.

(ii) Be installed with liners on the bottom and all sides in all areas in which gas is to be collected. The liners must be installed as required under 40 CFR 258.40.

(c) *Control system.* Control the gas collected from within the landfill through the use of control devices meeting the following requirements, except as provided in 40 CFR 60.24.

(1) A non-enclosed flare designed and operated in accordance with the parameters established in 40 CFR 60.18 except as noted in § 62.16722(d); or

(2) A control system designed and operated to reduce NMOC by 98 weight percent; or when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts-per-million by volume, dry basis as hexane at 3-percent oxygen or less. The reduction efficiency or concentration in parts-per-million by volume must be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in § 62.16718(d). The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this subpart.

(i) If a boiler or process heater is used as the control device, the landfill gas stream must be introduced into the flame zone.

(ii) The control device must be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored are specified in § 62.16722.

(iii) Legacy controlled landfills or landfills in the closed landfill subcategory that have already installed control systems and completed initial or subsequent performance tests may comply with this subpart using the initial or most recent performance test conducted to comply with 40 CFR part 60, subpart WWW; subpart GGG of this part; or a state plan implementing subpart Cc of part 60, is sufficient for compliance with this subpart.

(3) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air is not allowed. If the treated landfill gas cannot be routed for subsequent sale or beneficial use, then the treated landfill gas must be controlled according to either paragraph (c)(1) or (2) of this section.

(4) All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of paragraph (b) or (c) of this section. For purposes of this subpart, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of paragraph (b) or (c) of this section.

(d) *Design capacity.* Each owner or operator of an MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume must submit an initial design capacity report to the Administrator as provided in § 62.16724(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions must be documented and submitted with the report. Submittal of the initial design capacity report fulfills the requirements of this subpart except as provided in paragraphs (d)(1) and (2) of this section.

(1) The owner or operator must submit an amended design capacity report as provided in § 62.16724(b).

(2) When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator must comply with paragraph (e) of this section.

(e) *Emissions.* The owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must either install a collection and control system as provided in paragraphs (b) and (c) of this section or calculate an initial NMOC emission rate for the landfill using the procedures specified in § 62.16718(a). The NMOC emission rate must be recalculated annually, except as provided in § 62.16724(c)(3).

(1) If the calculated NMOC emission rate is less than 34 megagrams per year, the owner or operator must:

(i) Submit an annual NMOC emission rate report according to § 62.16724(c), except as provided in § 62.16724(c)(3); and

(ii) Recalculate the NMOC emission rate annually using the procedures specified in § 62.16724(a) until such time as the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed.

(A) If the calculated NMOC emission rate, upon initial calculation or annual recalculation required in paragraph (e)(1)(ii) of this section, is equal to or greater than 34 megagrams per year, the owner or operator must either: Comply with paragraphs (b) and (c) of this section; calculate NMOC emissions using the next higher tier in § 62.16718; or conduct a surface emission monitoring demonstration using the procedures specified in § 62.16718(a)(6).

(B) If the landfill is permanently closed, a closure report must be submitted to the Administrator as provided in § 62.16724(f), except for exemption allowed under § 62.16711(g)(4).

(2) If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator must either: Submit a collection and control system design plan prepared by a professional engineer to the Administrator within 1 year as specified in § 62.16724(d), except for exemptions allowed under § 62.16711(g)(3); calculate NMOC emissions using a

higher tier in § 62.16718; or conduct a surface emission monitoring demonstration using the procedures specified in § 62.16718(a)(6).

(3) For the closed landfill subcategory, if the calculated NMOC emission rate submitted under previously applicable regulations 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc is equal to or greater than 50 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator must either: submit a collection and control system design plan as specified in § 62.16724(d), except for exemptions allowed under § 62.16711(g)(3); or calculate NMOC emissions using a higher tier in § 62.16718.

(f) *Removal criteria.* The collection and control system may be capped, removed, or decommissioned if the following criteria are met:

(1) The landfill is a closed landfill (as defined in § 62.16730). A closure report must be submitted to the Administrator as provided in § 62.16724(f).

(2) The collection and control system has been in operation a minimum of 15 years or the landfill owner or operator demonstrates that the gas collection and control system will be unable to operate for 15 years due to declining gas flow.

(3) Following the procedures specified in § 62.16718(b), the calculated NMOC emission rate at the landfill is less than 34 megagrams per year on three successive test dates. The test dates must be no less than 90 days apart, and no more than 180 days apart.

(4) For the closed landfill subcategory (as defined in § 62.16730), following the procedures specified in § 62.16718(b), the calculated NMOC emission rate at the landfill is less than 50 megagrams per year on three successive test dates. The test dates must be no less than 90 days apart, and no more than 180 days apart.

§ 62.16716 Operational standards for collection and control systems.

Each owner or operator must comply with the provisions for the operational standards in this section (as well as the provisions in §§ 62.16720 and 62.16722), or the operational standards in § 63.1958 of this chapter (as well as the provisions in §§ 63.1960 and 63.1961 of this chapter), or both as alternative means of compliance, for an MSW landfill with a gas collection and control system used to comply with the provisions of § 62.16714(b) and (c). Once the owner or operator begins to comply with the provisions of § 63.1958 of this chapter, the owner or operator must continue to operate the collection and control device according to those provisions and cannot return to the provisions of this section. Each owner or operator of an MSW landfill with a gas collection and control system used to comply with the provisions of § 62.16714(b) and (c) must:

(a) Operate the collection system such that gas is collected from each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:

(1) 5 years or more if active; or

(2) 2 years or more if closed or at final grade;

(b) Operate the collection system with negative pressure at each wellhead except under the following conditions:

(1) A fire or increased well temperature. The owner or operator must record instances when positive pressure occurs in efforts to avoid a fire. These records must be submitted with the annual reports as provided in § 62.16724(h)(1);

(2) Use of a geomembrane or synthetic cover. The owner or operator must develop acceptable pressure limits in the design plan;

(3) A decommissioned well. A well may experience a static positive pressure after shut down to accommodate for declining flows. All design changes must be approved by the Administrator as specified in § 62.16724(d);

(c) Operate each interior wellhead in the collection system with a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator may establish a higher operating temperature value at a particular well. A higher operating value demonstration must be submitted to the Administrator for approval and must include supporting data demonstrating that the elevated parameter neither causes fires nor significantly inhibits anaerobic decomposition by killing methanogens. The demonstration must satisfy both criteria in order to be approved (*i.e.,* neither causing fires nor killing methanogens is acceptable).

(d) Operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator must conduct surface testing using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 62.16720(d). The owner or operator must conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals and where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. Thus, the owner or operator must monitor any openings that are within an area of the landfill where waste has been placed and a gas collection system is required. The owner or operator may establish an alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan must be developed that includes a topographical map with the monitoring route and the rationale for any site-specific deviations from the 30-meter intervals. Areas with steep slopes or other dangerous areas may be excluded from the surface testing.

(e) Operate the system such that all collected gases are vented to a control system designed and operated in compliance with § 62.16714(c). In the event the collection or control system is not operating, the gas mover system must be shut down and all valves in the collection and control system contributing to venting of the gas to the atmosphere must be closed within 1 hour of the collection or control system not operating.

(f) Operate the control system at all times when the collected gas is routed to the system.

(g) If monitoring demonstrates that the operational requirements in paragraphs (b), (c), or (d) of this section are not met, corrective action must be taken as specified in § 62.16720(a)(3) and (5) or § 62.16720(c). If corrective actions are taken as specified in § 62.16720, the monitored exceedance is not a violation of the operational requirements in this section.

§ 62.16718 Test methods and procedures.

Calculate the landfill NMOC emission rate and conduct a surface emission monitoring demonstration according to the provisions in this section.

(a)(1) *NMOC Emission rate.* The landfill owner or operator must calculate the NMOC emission rate using either Equation 1 provided in paragraph (a)(1)(i) of this section or Equation 2 provided in paragraph (a)(1)(ii) of this section. Both Equation 1 and Equation 2 may be used if the actual year-to-year solid waste acceptance rate is known, as specified in paragraph (a)(1)(i) of this section, for part of the life of the landfill and the actual year-to-year solid waste acceptance rate is unknown, as specified in paragraph (a)(1)(ii) of this section, for part of the life of the landfill. The values to be used in both Equation 1 and Equation 2 are 0.05 per year for k, 170 cubic meters per megagram for Lo, and 4,000 parts per million by volume as hexane for the

C_{NMOC}. For landfills located in geographical areas with a 30-year annual average precipitation of less than 25 inches, as measured at the nearest representative official meteorological site, the k value to be used is 0.02 per year.

(i)(A) Equation 1 must be used if the actual year-to-year solid waste acceptance rate is known.

$$M_{NMOC} = \sum_{i=1}^{n} 2\ k\ L_o M_i (e^{-kt_i})(C_{NMOC})(3.6\times10^{-9}) \quad \text{(Eq. 1)}$$

Where:

M_{NMOC} = Total NMOC emission rate from the landfill, megagrams per year.
k = Methane generation rate constant, year^{-1}.
L_o = Methane generation potential, cubic meters per megagram solid waste.
M_i = Mass of solid waste in the ith section, megagrams.
t_i = Age of the ith section, years.
C_{NMOC} = Concentration of NMOC, parts per million by volume as hexane.
3.6×10^{-9} = Conversion factor.

(B) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for M_i if documentation of the nature and amount of such wastes is maintained.

(ii)(A) Equation 2 must be used if the actual year-to-year solid waste acceptance rate is unknown.

$$M_{NMOC} = 2L_oR\ (e^{-kc} - e^{-kt})\ C_{NMOC}(3.6\times10^{-9}) \quad \text{(Eq. 2)}$$

Where:

M_{NMOC} = Mass emission rate of NMOC, megagrams per year.
L_o = Methane generation potential, cubic meters per megagram solid waste.
R = Average annual acceptance rate, megagrams per year.
k = Methane generation rate constant, year^{-1}.
t = Age of landfill, years.
C_{NMOC} = Concentration of NMOC, parts per million by volume as hexane.
c = Time since closure, years; for an active landfill c = 0 and e^{-kc} = 1.
3.6×10^{-9} = Conversion factor.

(B) The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value of R, if documentation of the nature and amount of such wastes is maintained.

(2) *Tier 1.* The owner or operator must compare the calculated NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC emission rate calculated in paragraph (a)(1) of this section is less than 34 megagrams per year, then the owner or operator must submit an NMOC emission rate report according to § 62.16724(c) and must recalculate the NMOC mass emission rate annually as required under § 62.16714(e).

(ii) If the NMOC emission rate calculated in paragraph (a)(1) of this section is equal to or greater than 34 megagrams per year, then the landfill owner or operator must either:

(A) Submit a gas collection and control system design plan within 1 year as specified in § 62.16724(d) and install and operate a gas collection and control system within 30 months according to § 62.16714(b) and (c);

(B) Determine a site-specific NMOC concentration and recalculate the NMOC emission rate using the Tier 2 procedures provided in paragraph (a)(3) of this section; or

(C) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the Tier 3 procedures provided in paragraph (a)(4) of this section.

(3) *Tier 2.* The landfill owner or operator must determine the site-specific NMOC concentration using the following sampling procedure. The landfill owner or operator must install at least two sample probes per hectare, evenly distributed over the landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The probes should be evenly distributed across the sample area. The sample probes should be located to avoid known areas of nondegradable solid waste. The owner or operator must collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using EPA Method 25 or 25C of appendix A–7 of 40 CFR part 60. Taking composite samples from different probes into a single cylinder is allowed; however, equal sample volumes must be taken from each probe. For each composite, the sampling rate, collection times, beginning and ending cylinder vacuums, or alternative volume measurements must be recorded to verify that composite volumes are equal. Composite sample volumes should not be less than one liter unless evidence can be provided to substantiate the accuracy of smaller volumes. Terminate compositing before the cylinder approaches ambient pressure where measurement accuracy diminishes. If more than the required number of samples is taken, all samples must be used in the analysis. The landfill owner or operator must divide the NMOC concentration from EPA Method 25 or 25C of appendix A–7 of 40 CFR part 60 by 6 to convert from C_{NMOC} as carbon to C_{NMOC} as hexane. If the landfill has an active or passive gas removal system in place, EPA Method 25 or 25C samples may be collected from these systems instead of surface probes provided the removal system can be shown to provide sampling as representative as the two sampling probes per hectare requirement. For active collection systems, samples may be collected from the common header pipe. The sample location on the common header pipe must be before any gas moving, condensate removal, or treatment system equipment. For active collection systems, a minimum of three samples must be collected from the header pipe.

(i) Within 60 days after the date of determining the NMOC concentration and corresponding NMOC emission rate, the owner or operator must submit the results according to § 62.16724(j)(2).

(ii) The landfill owner or operator must recalculate the NMOC mass emission rate using Equation 1 or Equation 2 provided in paragraph (a)(1)(i) or (ii) of this section using the average site-specific NMOC concentration from the collected samples instead of the default value provided in paragraph (a)(1) of this section.

(iii) If the resulting NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator must submit a periodic estimate of NMOC emissions in an NMOC emission rate report according to § 62.16724(c) and must recalculate the NMOC mass emission rate annually as required under § 62.16714(e). The site-specific NMOC concentration must be retested every 5 years using the methods specified in this section.

(iv) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration is equal to or greater than 34 megagrams per year, the owner or operator must either:

(A) Submit a gas collection and control system design plan within 1 year as specified in § 62.16724(d) and install and operate a gas collection and control system within 30 months according to § 62.16714(b) and (c);

(B) Determine a site-specific methane generation rate constant and recalculate the NMOC emission rate using the site-specific methane generation rate using the Tier 3 procedures specified in paragraph (a)(4) of this section; or

(C) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in paragraph (a)(6) of this section.

(4) *Tier 3.* The site-specific methane generation rate constant must be determined using the procedures provided in EPA Method 2E of appendix A–1 of 40 CFR part 60. The landfill owner or operator must estimate the NMOC mass emission rate using Equation 1 or Equation 2 in paragraph (a)(1)(i) or (ii) of this section and using a site-specific methane generation rate constant, and the site-specific NMOC concentration as determined in paragraph (a)(3) of this section instead of the default values provided in paragraph (a)(1) of this section. The landfill owner or operator must compare the resulting NMOC mass emission rate to the standard of 34 megagrams per year.

(i) If the NMOC mass emission rate as calculated using the Tier 2 site-specific NMOC concentration and Tier 3 site-specific methane generation rate is equal to or greater than 34 megagrams per year, the owner or operator must either:

(A) Submit a gas collection and control system design plan within 1 year as specified in § 62.16724(d) and install and operate a gas collection and control system within 30 months according to § 62.16714(b) and (c); or

(B) Conduct a surface emission monitoring demonstration using the Tier 4 procedures specified in paragraph (a)(6) of this section.

(ii) If the NMOC mass emission rate is less than 34 megagrams per year, then the owner or operator must recalculate the NMOC mass emission rate annually using Equation 1 or Equation 2 in paragraph (a)(1) of this section and using the site-specific Tier 2 NMOC concentration and Tier 3 methane generation rate constant and submit a periodic NMOC emission rate report as provided in § 62.16724(c). The calculation of the methane generation rate constant is performed only once, and the value obtained from this test must be used in all subsequent annual NMOC emission rate calculations.

(5) *Alternative methods.* The owner or operator may use other methods to determine the NMOC concentration or a site-specific methane generation rate constant as an alternative to the methods required in paragraphs (a)(3) and (4) of this section if the method has been approved by the Administrator.

(6) *Tier 4.* Demonstrate that surface methane emissions are below 500 parts per million. Surface emission monitoring must be conducted on a quarterly basis using the following procedures. Tier 4 is allowed only if the landfill owner or operator can demonstrate that NMOC emissions are greater than or equal to 34 megagrams per year but less than 50 megagrams per year using Tier 1 or Tier 2. If both Tier 1 and Tier 2 indicate NMOC emissions are megagrams per year or greater, then Tier 4 cannot be used. In addition, the landfill must meet the criteria in paragraph (a)(6)(viii) of this section.

(i) Measure surface concentrations of methane along the entire perimeter of the landfill and along a pattern that traverses the landfill at no more than 30-meter intervals using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in § 62.16720(d).

(ii) The background concentration must be determined by moving the probe inlet upwind and downwind at least 30 meters from the waste mass boundary of the landfill.

(iii) Surface emission monitoring must be performed in accordance with section 8.3.1 of EPA Method 21 of appendix A–7 of 40 CFR part 60, except that the probe inlet must be placed no more than 5 centimeters above the landfill surface; the constant measurement of distance above the surface should be based on a mechanical device such as with a wheel on a pole.

(A) The owner or operator must use a wind barrier, similar to a funnel, when onsite average wind speed exceeds 4 miles per hour or 2 meters per second or gust exceeding 10 miles per hour. Average on-site wind speed must also be determined in an open area at 5-minute intervals using an on-site anemometer with a continuous recorder and data logger for the entire duration of the monitoring event. The wind barrier must surround the SEM monitor, and must be placed on the ground, to ensure wind turbulence is blocked. The SEM cannot be conducted if average wind speed exceeds 25 miles per hour.

(B) Landfill surface areas where visual observations indicate elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover, and all cover penetrations must also be monitored using a device meeting the specifications provided in § 62.16720(d).

(iv) Each owner or operator seeking to comply with the Tier 4 provisions in paragraph (a)(6) of this section must maintain records of surface emission monitoring as provided in § 62.16726(g) and submit a Tier 4 surface emissions report as provided in § 62.16724(d)(4)(iii).

(v) If there is any measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must submit a gas collection and control system design plan within 1 year of the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill according to § 62.16724(d) and install and operate a gas collection and control system according to § 62.16714(b) and (c) within 30 months of the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2.

(vi) If after four consecutive quarterly monitoring periods at a landfill, other than a closed landfill, there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must continue quarterly surface emission monitoring using the methods specified in this section.

(vii) If after four consecutive quarterly monitoring periods at a closed landfill there is no measured concentration of methane of 500 parts per million or greater from the surface of the landfill, the owner or operator must conduct annual surface emission monitoring using the methods specified in this section.

(viii) If a landfill has installed and operates a collection and control system that is not required by this subpart, then the collection and control system must meet the following criteria:

(A) The gas collection and control system must have operated for at least 6,570 out of 8,760 hours preceding the Tier 4 SEM demonstration.

(B) During the Tier 4 SEM demonstration, the gas collection and control system must operate as it normally would to collect and control as much landfill gas as possible.

(b) After the installation and startup of a collection and control system in compliance with this subpart, the owner or operator must calculate the NMOC emission rate for purposes of determining when the system can be capped, removed, or decommissioned as provided in § 62.16714(f), using Equation 3:

$$M_{NMOC} = 1.89 \times 10^{-3} Q_{LFG} C_{NMOC} \quad \text{(Eq. 3)}$$

Where:

M_{NMOC} = Mass emission rate of NMOC, megagrams per year.

Q_{LFG} = Flow rate of landfill gas, cubic meters per minute.

C_{NMOC} = NMOC concentration, parts per million by volume as hexane.

(1) *Flow rate.* The flow rate of landfill gas, Q_{LFG}, must be determined by measuring the total landfill gas flow rate at the common header pipe that leads to the control system using a gas flow measuring device calibrated according to the provisions of section 10 of EPA Method 2E of appendix A–1 of 40 CFR part 60.

(2) *NMOC concentration.* The average NMOC concentration, C_{NMOC}, must be determined by collecting and analyzing landfill gas sampled from the common header pipe before the gas moving or condensate removal equipment using the procedures in EPA Method 25 or EPA Method 25C of appendix A–7 of 40 CFR part 60. The sample location on the common header pipe must be before any condensate removal or other gas refining units. The landfill owner or operator must divide the NMOC concentration from EPA Method 25 or EPA Method 25C of appendix A–7 of 40 CFR part 60 by six to convert from C_{NMOC} as carbon to C_{NMOC} as hexane.

(3) *Gas flow rate method.* The owner or operator may use another method to determine landfill gas flow rate and NMOC concentration if the method has been approved by the Administrator.

(i) Within 60 days after the date of calculating the NMOC emission rate for purposes of determining when the system can be capped or removed, the owner or operator must submit the results according to § 62.16724(j)(2).

(ii) [Reserved]

(c) When calculating emissions for Prevention of Significant Deterioration purposes, the owner or operator of each MSW landfill subject to the provisions of this subpart must estimate the NMOC emission rate for comparison to the Prevention of Significant Deterioration major source and significance levels in §§ 51.166 or 52.21 of this chapter using Compilation of Air Pollutant Emission Factors, Volume I: Stationary Point and Area Sources (AP–42) or other approved measurement procedures.

(d) For the performance test required in § 62.16714(c)(1), the net heating value of the combusted landfill gas as determined in 40 CFR 60.18(f)(3) of this chapter is calculated from the concentration of methane in the landfill gas as measured by EPA Method 3C. A minimum of three 30-minute EPA Method 3C samples are determined. The measurement of other organic components, hydrogen, and carbon monoxide is not applicable. EPA Method 3C may be used to determine the landfill gas molecular weight for calculating the flare gas exit velocity under 40 CFR 60.18(f)(4) of this chapter.

(1) *Performance test results.* Within 60 days after the date of completing each performance test (as defined in § 60.8 of this chapter), the owner or operator must submit the results of the performance tests required by paragraph (b) or (d) of this section, including any associated fuel analyses, according to § 62.16724(j)(1).

(2) [Reserved]

(e) For the performance test required in § 62.16714(c)(2), EPA Method 25 or 25C (EPA Method 25C may be used at the inlet only) of appendix A–7 of 40 CFR part 60 must be used to determine compliance with the 98 weight-percent efficiency or the 20 parts-per-million by volume outlet NMOC concentration level, unless another method to demonstrate compliance has been approved by the Administrator as provided by § 62.16724(d)(2). EPA Method 3, 3A, or 3C of appendix A–2 of 40 CFR part 60 must be used to determine oxygen for correcting the NMOC concentration as hexane to 3 percent. In cases where the outlet concentration is less than 50 parts-per-million NMOC as carbon (8 parts-per-million NMOC as hexane), EPA Method 25A should be used in place of EPA Method 25. EPA Method 18 of appendix A–6 of 40 CFR part 60 may be used in conjunction with EPA Method 25A on a limited basis (compound specific, *e.g.,* methane) or EPA Method 3C may be used to determine methane. The methane as carbon should be subtracted from the EPA Method 25A total hydrocarbon value as carbon to give NMOC concentration as carbon. The landfill owner or operator must divide the NMOC concentration as carbon by 6 to convert the C_{NMOC} as carbon to C_{NMOC} as hexane. Equation 4 must be used to calculate efficiency:

$$\text{Control Efficiency} = (NMOC_{in} - NMOC_{out}) / (NMOC_{in}) \quad \text{(Eq. 4)}$$

Where:

$NMOC_{in}$ = Mass of NMOC entering control device.

$NMOC_{out}$ = Mass of NMOC exiting control device.

(1) *Performance test submission.* Within 60 days after the date of completing each performance test (as defined in§ 60.8 of this chapter), the owner or operator must submit the results of the performance tests, including any associated fuel analyses, according to § 62.16724(j)(1).

(2) [Reserved]

§ 62.16720 Compliance provisions.

Follow the compliance provisions in this section (as well as the provisions in §§ 62.16716 and 62.16722), or the compliance provisions in § 63.1960 of this chapter (as well as the provisions in §§ 63.1958 and 63.1961 of this chapter), or both as alternative means of compliance, for an MSW landfill with a gas collection and control system used to comply with the provisions of § 62.16714(b) and (c). Once the owner or operator begins to comply with the provisions of § 63.1960 of this chapter, the owner or operator must continue to operate the collection and control device according to those provisions and cannot return to the provisions of this section.

(a) Except as provided in § 62.16724(d)(2), the specified methods in paragraphs (a)(1) through (6) of this section must be used to determine whether the gas collection system is in compliance with § 62.16714(b)(2).

(1) For the purposes of calculating the maximum expected gas generation flow rate from the landfill to determine compliance with § 62.16714(b)(2)(i), either Equation 5 or Equation 6 must be used. The methane generation rate constant (k) and methane generation potential (Lo) kinetic factors should be those published in the most recent AP–42 or other site-specific values demonstrated to be appropriate and approved by the Administrator. If k has been determined as specified in § 62.16718(a)(4), the value of k determined from the test must be used. A value of no more than 15 years must be used for the intended use period of the gas mover equipment. The active life of the landfill is the age of the landfill plus the estimated number of years until closure.

(i) For sites with unknown year-to-year solid waste acceptance rate:

$$Q_m = 2L_oR(e^{-kc} - e^{-kt}) \quad \text{(Eq. 5)}$$

Where:

Q_m = Maximum expected gas generation flow rate, cubic meters per year.

L_o = Methane generation potential, cubic meters per megagram solid waste.

R = Average annual acceptance rate, megagrams per year.

k = Methane generation rate constant, year − 1.

t = Age of the landfill at equipment installation plus the time the owner or operator intends to use the gas mover equipment or active life of the landfill, whichever is less. If the equipment is installed after closure, t is the age of the landfill at installation, years.

c = Time since closure, years (for an active landfill c = 0 and $e^{-kc} = 1$).

(ii) For sites with known year-to-year solid waste acceptance rate:

$$Q_M = \sum_{i-1}^{n} 2kL_oM_i(e^{-kt_i}) \quad \text{(Eq. 6)}$$

Where:

Q_M = Maximum expected gas generation flow rate, cubic meters per year.

k = Methane generation rate constant, year − 1.

L_o = Methane generation potential, cubic meters per megagram solid waste.

M_i = Mass of solid waste in the ith section, megagrams.

t_i = Age of the ith section, years.

(iii) If a collection and control system has been installed, actual flow data may be used to project the maximum expected gas generation flow rate instead of, or in conjunction with, Equation 5 or Equation 6 in paragraphs (a)(1)(i) and (ii) of this section. If the landfill is still accepting waste, the actual measured flow data will not equal the maximum expected gas generation rate, so calculations using Equation 5 or Equation 6 in paragraphs (a)(1)(i) or (ii) of this section or other methods must be used to predict the maximum expected gas generation rate over the intended period of use of the gas control system equipment.

(2) For the purposes of determining sufficient density of gas collectors for compliance with § 62.16714(b)(2)(ii), the owner or operator must design a system of vertical wells, horizontal collectors, or other collection devices, satisfactory to the Administrator, capable of controlling and extracting gas from all portions of the landfill sufficient to meet all operational and performance standards.

(3) For the purpose of demonstrating whether the gas collection system flow rate is sufficient to determine compliance with § 62.16714(b)(2)(iii), the owner or operator must measure gauge pressure in the gas collection header applied to each individual well monthly. If a positive pressure exists, action must be initiated to correct the exceedance within 5 calendar days, except for the three conditions allowed under § 62.16716(b). Any attempted corrective measure must not cause exceedances of other operational or performance standards.

(i) If negative pressure cannot be achieved without excess air infiltration within 15 calendar days of the first measurement of positive pressure, the owner or operator must conduct a root cause analysis and correct the exceedance as soon as practicable, but not later than 60 days after positive pressure was first measured. The owner or operator must keep records according to § 62.16726(e)(3).

(ii) If corrective actions cannot be fully implemented within 60 days following the positive pressure or elevated temperature measurement for which the root cause analysis was required, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit) or positive pressure. The owner or operator must submit the items listed in § 62.16724(h)(7) as part of the next annual report. The owner or operator must keep records according to § 62.16726(e)(4).

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator, according to § 62.16724(h)(7) and (k). The owner or operator must keep records according to § 62.16726(e)(5).

(4) For the purpose of identifying whether excess air infiltration into the landfill is occurring, the owner or operator must monitor each well monthly for temperature as provided in § 62.16716(c). If a well exceeds the operating parameter for temperature, action must be initiated to correct the exceedance within 5 calendar days. Any attempted corrective measure must not cause exceedances of other operational or performance standards.

(i) If a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit) cannot be achieved within 15 calendar days of the first measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit), the owner or operator must conduct a root cause analysis and correct the exceedance as soon as practicable, but no later than 60 days after a landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit) was first measured. The owner or operator must keep records according to § 62.16726(e)(3).

(ii) If corrective actions cannot be fully implemented within 60 days following the measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit) for which the root cause analysis was required, the owner or operator must also conduct a corrective action analysis and develop an implementation schedule to complete the corrective action(s) as soon as practicable, but no more than 120 days following the measurement of landfill gas temperature greater than 55 degrees Celsius (131 degrees Fahrenheit). The owner or operator must submit the items listed in § 62.16724(h)(7) as part of the next annual report. The owner or operator must keep records according to § 62.16726(e)(4).

(iii) If corrective action is expected to take longer than 120 days to complete after the initial exceedance, the owner or operator must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator, according to § 62.16724(h)(7) and § 62.16724(k). The owner or operator must keep records according to § 62.16726(e)(5).

(5) An owner or operator seeking to demonstrate compliance with § 62.16714(b)(2)(iv) through the use of a collection system not conforming to the specifications provided in § 62.16728 must provide information satisfactory to the Administrator as specified in § 62.16724(d)(3) demonstrating that off-site migration is being controlled.

(b) For purposes of compliance with § 62.16716(a), each owner or operator of a controlled landfill must place each well or design component as specified in the approved design plan as provided in § 62.16724(d). Each well must be installed no later than 60 days after the date on which the initial solid waste has been in place for a period of:

(1) 5 years or more if active; or

(2) 2 years or more if closed or at final grade.

(c) The following procedures must be used for compliance with the surface methane operational standard as provided in § 62.16716(d):

(1) After installation and startup of the gas collection system, the owner or operator must monitor surface concentrations of methane along the entire perimeter of the collection area and along a pattern that traverses the landfill at no more than 30-meter intervals (or a site-specific established spacing) for each collection area on a quarterly basis using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the specifications provided in paragraph (d) of this section.

(2) The background concentration must be determined by moving the probe inlet upwind and downwind outside the boundary of the landfill at a distance of at least 30 meters from the perimeter wells.

(3) Surface emission monitoring must be performed in accordance with section 8.3.1 of EPA Method 21 of appendix A–7 of 40 CFR part 60, except that the probe inlet must be placed within 5 to 10 centimeters of the ground. Monitoring must be performed during typical meteorological conditions.

(4) Any reading of 500 parts per million or more above background at any location must be recorded as a monitored exceedance and the actions specified in paragraphs (c)(4)(i) through (v) of this section must be taken. As long as the specified actions are taken, the exceedance is not a violation of the operational requirements of § 62.16716(d).

(i) The location of each monitored exceedance must be marked, and the location and concentration recorded. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates must be in decimal degrees with at least five decimal places.

(ii) Cover maintenance or adjustments to the vacuum of the adjacent wells to increase the gas collection in the vicinity of each exceedance must be made and the location must be re-monitored within 10 calendar days of detecting the exceedance.

(iii) If the re-monitoring of the location shows a second exceedance, additional corrective action must be taken, and the location must be monitored again within 10 days of the second exceedance. If the re-monitoring shows a third exceedance for the same location, the action specified in paragraph (c)(4)(v) of this section must be taken, and no further monitoring of that location is required until the action specified in paragraph (c)(4)(v) of this section has been taken.

(iv) Any location that initially showed an exceedance but has a methane concentration less than 500 parts-per-million methane above background at the 10-day re-monitoring specified in paragraph (c)(4)(ii) or (iii) of this section must be re-monitored 1 month from the initial exceedance. If the 1-month re-monitoring shows a concentration less than 500 parts-per-million above background, no further monitoring of that location is required until the next quarterly monitoring period. If the 1-month re-monitoring shows an exceedance, the actions specified in paragraph (c)(4)(iii) or (v) of this section must be taken.

(v) For any location where monitored methane concentration equals or exceeds 500 parts-per-million above background three times within a quarterly period, a new well or other collection device must be installed within 120 calendar days of the initial exceedance. An alternative remedy to the exceedance, such as upgrading the blower, header pipes or control device, and a corresponding timeline for installation may be submitted to the Administrator for approval.

(5) The owner or operator must implement a program to monitor for cover integrity and implement cover repairs as necessary on a monthly basis.

(d) Each owner or operator seeking to comply with the provisions in paragraph (c) of this section or § 62.16718(a)(6) must comply with the following instrumentation specifications and procedures for surface emission monitoring devices:

(1) The portable analyzer must meet the instrument specifications provided in section 6 of EPA Method 21 of appendix A–7 of 40 CFR part 60, except that ''methane'' replaces all references to ''VOC.''

(2) The calibration gas must be methane, diluted to a nominal concentration of 500 parts-per-million in air.

(3) To meet the performance evaluation requirements in section 8.1 of EPA Method 21 of appendix A–7 of 40 CFR part 60, the instrument evaluation procedures of section 8.1 of EPA Method 21 of appendix A–7 of 40 CFR part 60 must be used.

(4) The calibration procedures provided in sections 8 and 10 of EPA Method 21 of appendix A–7 of 40 CFR part 60 must be followed immediately before commencing a surface monitoring survey.

(e) The provisions of this subpart apply at all times, including periods of startup, shutdown, or malfunction. During periods of startup, shutdown, and malfunction, you must comply with the work practice specified in § 62.16716(e) in lieu of the compliance provisions in § 62.16720.

§ 62.16722 Monitoring of operations.

Follow the monitoring provisions in this section (as well as the provisions in §§ 62.16716 and 62.16720), except as provided in § 62.16724(d)(2), or the monitoring provisions in § 63.1961 of this chapter (as well as the provisions in §§ 63.1958 and 63.1960 of this chapter), or both as alternative means of compliance, for an MSW landfill with a gas collection and control system used

to comply with the provisions of § 62.16714(b) and (c). Once the owner or operator begins to comply with the provisions of § 63.1961 of this chapter, the owner or operator must continue to operate the collection and control device according to those provisions and cannot return to the provisions of this section.

(a) Each owner or operator seeking to comply with § 62.16714(b)(2) for an active gas collection system must install a sampling port and a thermometer, other temperature measuring device, or an access port for temperature measurements at each wellhead and:

(1) Measure the gauge pressure in the gas collection header on a monthly basis as provided in § 62.16720(a)(3); and

(2) Monitor nitrogen or oxygen concentration in the landfill gas on a monthly basis as follows:

(i) The nitrogen level must be determined using EPA Method 3C of appendix A–2 of 40 CFR part 60, unless an alternative test method is established as allowed by § 62.16724(d)(2).

(ii) Unless an alternative test method is established as allowed by § 62.16724(d)(2), the oxygen level must be determined by an oxygen meter using EPA Method 3A of appendix A–7 of 40 CFR part 60, EPA Method 3C of appendix A–7 of 40 CFR part 60, or ASTM D6522–11. Determine the oxygen level by an oxygen meter using EPA Method 3A, 3C, or ASTM D6522–11 (if sample location is prior to combustion) except that:

(A) The span must be set between 10- and 12-percent oxygen;

(B) A data recorder is not required;

(C) Only two calibration gases are required, a zero and span;

(D) A calibration error check is not required;

(E) The allowable sample bias, zero drift, and calibration drift are ±10 percent.

(iii) A portable gas composition analyzer may be used to monitor the oxygen levels provided:

(A) The analyzer is calibrated; and

(B) The analyzer meets all quality assurance and quality control requirements for EPA Method 3A or ASTM D6522–11.

(3) Monitor temperature of the landfill gas on a monthly basis as provided in § 62.16720(a)(4). The temperature measuring device must be calibrated annually using the procedure in 40 CFR part 60, appendix A–1, EPA Method 2, section 10.3.

(b) Each owner or operator seeking to comply with § 62.16714(c) using an enclosed combustor must calibrate, maintain, and operate according to the manufacturer's specifications, the following equipment:

(1) A temperature monitoring device equipped with a continuous recorder and having a minimum accuracy of ±1 percent of the temperature being measured expressed in degrees Celsius or ±0.5 degrees Celsius, whichever is greater. A temperature monitoring device is not required for boilers or process heaters with design heat input capacity equal to or greater than 44 megawatts.

(2) A device that records flow to the control device and bypass of the control device (if applicable). The owner or operator must:

(i) Install, calibrate, and maintain a gas flow rate measuring device that must record the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(c) Each owner or operator seeking to comply with § 62.16714(c) using a non-enclosed flare must install, calibrate, maintain, and operate according to the manufacturer's specifications the following equipment:

(1) A heat sensing device, such as an ultraviolet beam sensor or thermocouple, at the pilot light or the flame itself to indicate the continuous presence of a flame.

(2) A device that records flow to the flare and bypass of the flare (if applicable). The owner or operator must:

(i) Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the control device at least every 15 minutes; and

(ii) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(d) Each owner or operator seeking to demonstrate compliance with § 62.16714(c) using a device other than a non-enclosed flare or an enclosed combustor or a treatment system must provide information satisfactory to the Administrator as provided in § 62.16724(d)(2) describing the operation of the control device, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator must review the information and either approve it, or request that additional information be submitted. The Administrator may specify additional appropriate monitoring procedures.

(e) Each owner or operator seeking to install a collection system that does not meet the specifications in § 62.16728 or seeking to monitor alternative parameters to those required by § 62.16716 through § 62.16722 must provide information satisfactory to the Administrator as provided in § 62.16724(d)(2) and (3) describing the design and operation of the collection system, the operating parameters that would indicate proper performance, and appropriate monitoring procedures. The Administrator may specify additional appropriate monitoring procedures.

(f) Each owner or operator seeking to demonstrate compliance with the 500 parts-per-million surface methane operational standard in § 62.16716(d) must monitor surface concentrations of methane according to the procedures provided in § 62.16720(c) and the instrument specifications in § 62.16720(d). Any closed landfill that has no monitored exceedances of the operational standard in three consecutive quarterly monitoring periods may skip to annual monitoring. Any methane reading of 500 parts-per-million or more above background detected during the annual monitoring returns the frequency for that landfill to quarterly monitoring.

(g) Each owner or operator seeking to demonstrate compliance with the control system requirements in § 62.16714(c) using a landfill gas treatment system must maintain and operate all monitoring systems associated with the treatment system in accordance with the site-specific treatment system monitoring plan required in § 62.16726(b)(5)(ii) and must calibrate, maintain, and operate according to the manufacturer's specifications a device that records flow to the treatment system and bypass of the treatment system (if applicable). The owner or operator must:

(1) Install, calibrate, and maintain a gas flow rate measuring device that records the flow to the treatment system at least every 15 minutes; and

(2) Secure the bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. A visual inspection of the seal or closure mechanism must be performed at least once every month to ensure that the valve is maintained in the closed position and that the gas flow is not diverted through the bypass line.

(h) The monitoring requirements of paragraphs (b), (c), (d), and (g) of this section apply at all times the designated facility is operating, except for periods of monitoring system malfunctions, repairs associated with monitoring system malfunctions, and required monitoring system quality assurance or quality control activities. A monitoring system malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not malfunctions. You are required to complete monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

(i) Incorporation by reference required material.

(1) The material required by this section was approved for incorporation by reference into this section by the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. You may inspect approved material at the EPA Docket Center, WJC West Building, Room Number 3334, 1301 Constitution Ave. NW, Washington, DC, (202) 566–1744, Docket ID No. EPA–HQ–OAR–2019–0338 and obtain it from the source(s) listed below. It is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to *www.archives.gov/federal-register/cfr/ibr-locations.html.*

(2) ASTM International, 100 Barr Harbor Drive, P.O. Box CB700, West Conshohocken, Pennsylvania 19428–2959, (800) 262–1373, *www.astm.org.*

(i) ASTM D6522–11 Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers, approved December 1, 2011.

(ii) [Reserved]

§ 62.16724 Reporting guidelines.

Follow the reporting provisions listed in this section, as applicable, except as provided under 40 CFR 60.24 and §§ 62.16711(g), (h), and 62.16724(d)(2).

(a) *Design capacity report.* Submit the initial design capacity report no later than September 20, 2021. The initial design capacity report must contain the following information:

(1) A map or plot of the landfill, providing the size and location of the landfill, and identifying all areas where solid waste may be landfilled according to the permit issued by the state, local, or tribal agency responsible for regulating the landfill.

(2) The maximum design capacity of the landfill. Where the maximum design capacity is specified in the permit issued by the state, local, or tribal agency responsible for regulating the landfill, a copy of the permit specifying the maximum design capacity may be submitted as part of the report. If the maximum design capacity of the landfill is not specified in the permit, the maximum design capacity must be calculated using good engineering practices. The calculations must be provided, along with the relevant parameters as part of the report. The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site-specific density, which must be recalculated annually. Any density conversions must be documented and submitted with the design capacity report. The state, local, or tribal agency or the Administrator may request other reasonable information as may be necessary to verify the maximum design capacity of the landfill.

(b) *Amended design capacity report.* An amended design capacity report must be submitted providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the maximum design capacity of the landfill to meet or exceed 2.5 million megagrams and 2.5 million cubic meters. This increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the density as documented in the annual recalculation required in § 62.16726(f).

(c) *NMOC emission rate report.* For existing MSW landfills covered by this subpart with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the NMOC emission rate report must be submitted following the procedure specified in paragraph (j)(2) of this section no later than 90 days after the effective date of this subpart. The NMOC emission rate report must be submitted to the Administrator annually following the procedure specified in paragraph (j)(2) of this section, except as provided for in paragraph (c)(3) of this section. The Administrator may request such additional information as may be necessary to verify the reported NMOC emission rate.

(1) The NMOC emission rate report must contain an annual or 5-year estimate of the NMOC emission rate calculated using the formula and procedures provided in § 62.16718(a) or (b), as applicable.

(2) The NMOC emission rate report must include all the data, calculations, sample reports and measurements used to estimate the annual or 5-year emissions.

(3) If the estimated NMOC emission rate as reported in the annual report to the Administrator is less than 34 megagrams per year in each of the next 5 consecutive years, the owner or operator may elect to submit, following the procedure specified in paragraph (j)(2) of this section, an estimate of the NMOC emission rate for the next 5-year period in lieu of the annual report. This estimate must include the current amount of solid waste-in-place and the estimated waste acceptance rate for each year of the 5 years for which an NMOC emission rate is estimated. All data and calculations upon which this estimate is based must be provided to the Administrator. This estimate must be revised at least once every 5 years. If the actual waste acceptance rate exceeds the estimated waste acceptance rate in any year reported in the 5-year estimate, a revised 5-year estimate must be submitted to the Administrator. The revised estimate must cover the 5-year period beginning with the year in which the actual waste acceptance rate exceeded the estimated waste acceptance rate.

(4) Each owner or operator subject to the requirements of this subpart is exempted from the requirements to submit an NMOC emission rate report, after installing a collection and control system that complies with § 62.16714(b) and (c), during such time as the collection and control system is in operation and in compliance with §§ 62.16716 and 62.16720.

(d) *Collection and control system design plan.* The collection and control system design plan must be prepared and approved by a professional engineer and must meet the following requirements:

(1) The collection and control system as described in the design plan must meet the design requirements in § 62.16714(b) and (c).

(2) The collection and control system design plan must include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions

of §§ 62.16716 through 62.16726 proposed by the owner or operator.

(3) The collection and control system design plan must either conform to specifications for active collection systems in § 62.16728 or include a demonstration to the Administrator's satisfaction of the sufficiency of the alternative provisions to § 62.16728.

(4) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must submit a copy of the collection and control system design plan cover page that contains the engineer's seal to the Administrator within 1 year of the first NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year, except as follows:

(i) If the owner or operator elects to recalculate the NMOC emission rate after Tier 2 NMOC sampling and analysis as provided in § 62.16718(a)(3) and the resulting rate is less than 34 megagrams per year, annual periodic reporting must be resumed, using the Tier 2 determined site-specific NMOC concentration, until the calculated NMOC emission rate is equal to or greater than 34 megagrams per year or the landfill is closed. The revised NMOC emission rate report, with the recalculated NMOC emission rate based on NMOC sampling and analysis, must be submitted, following the procedures in paragraph (j)(2) of this section, within 180 days of the first calculated exceedance of 34 megagrams per year.

(ii) If the owner or operator elects to recalculate the NMOC emission rate after determining a site-specific methane generation rate constant k, as provided in Tier 3 in § 62.16718(a)(4), and the resulting NMOC emission rate is less than 34 megagrams per year, annual periodic reporting must be resumed. The resulting site-specific methane generation rate constant k must be used in the NMOC emission rate calculation until such time as the emissions rate calculation results in an exceedance. The revised NMOC emission rate report based on the provisions of § 62.16718(a)(4) and the resulting site-specific methane generation rate constant k must be submitted, following the procedure specified in paragraph (j)(2) of this section, to the Administrator within 1 year of the first calculated NMOC emission rate equaling or exceeding 34 megagrams per year.

(iii) If the owner or operator elects to demonstrate that site-specific surface methane emissions are below 500 parts-per-million methane, based on the provisions of § 62.16718(a)(6), then the owner or operator must submit annually a Tier 4 surface emissions report as specified in this paragraph following the procedure specified in paragraph (j)(2) of this section until a surface emissions reading of 500 parts-per-million methane or greater is found. If the Tier 4 surface emissions report shows no surface emissions readings of 500 parts-per-million methane or greater for four consecutive quarters at a closed landfill, then the landfill owner or operator may reduce Tier 4 monitoring from a quarterly to an annual frequency. The Administrator may request such additional information as may be necessary to verify the reported instantaneous surface emission readings. The Tier 4 surface emissions report must clearly identify the location, date and time (to the nearest second), average wind speeds including wind gusts, and reading (in parts-per-million) of any value 500 parts-per-million methane or greater, other than non-repeatable, momentary readings. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates must be in decimal degrees with at least five decimal places. The Tier 4 surface emission report should also include the results of the most recent Tier 1 and Tier 2 results in order to verify that the landfill does not exceed 50 megagrams per year of NMOC.

(A) The initial Tier 4 surface emissions report must be submitted annually, starting within 30 days of completing the fourth quarter of Tier 4 SEM that demonstrates that site-specific surface methane emissions are below 500 parts-per-million methane, and following the procedure specified in paragraph (j)(2) of this section

(B) The Tier 4 surface emissions rate report must be submitted within 1 year of the first measured surface exceedance of 500 parts-per-million methane, following the procedure specified in paragraph (j)(2) of this section.

(iv) If the landfill is in the closed landfill subcategory, the owner or operator is exempt from submitting a collection and control system design plan to the Administrator provided that conditions in § 62.16711(g)(3) are met. If not, the owner or operator shall follow the submission procedures and timing in § 62.16724(d)(ii) and (iii) using a level of 50 Mg/yr instead of 34 Mg/yr.

(5) The landfill owner or operator must notify the Administrator that the design plan is completed and submit a copy of the plan's signature page. The Administrator has 90 days to decide whether the design plan should be submitted for review. If the Administrator chooses to review the plan, the approval process continues as described in paragraph (c)(6) of this section. However, if the Administrator indicates that submission is not required or does not respond within 90 days, the landfill owner or operator can continue to implement the plan with the recognition that the owner or operator is proceeding at their own risk. In the event that the design plan is required to be modified to obtain approval, the owner or operator must take any steps necessary to conform any prior actions to the approved design plan and any failure to do so could result in an enforcement action.

(6) Upon receipt of an initial or revised design plan, the Administrator must review the information submitted under paragraphs (d)(1) through (3) of this section and either approve it, disapprove it, or request that additional information be submitted. Because of the many site-specific factors involved with landfill gas system design, alternative systems may be necessary. A wide variety of system designs are possible, such as vertical wells, combination horizontal and vertical collection systems, or horizontal trenches only, leachate collection components, and passive systems. If the Administrator does not approve or disapprove the design plan, or does not request that additional information be submitted within 90 days of receipt, then the owner or operator may continue with implementation of the design plan, recognizing they would be proceeding at their own risk.

(7) If the owner or operator chooses to demonstrate compliance with the emission control requirements of this subpart using a treatment system as defined in this subpart, then the owner or operator must prepare a site-specific treatment system monitoring plan as specified in § 62.16726(b)(5). Legacy controlled landfills must prepare the monitoring plan no later than May 23, 2022.

(e) *Revised design plan.* The owner or operator who has already been required to submit a design plan under paragraph (d) of this section, or under subpart GGG of this part; 40 CFR part 60, subpart WWW; or a state plan implementing subpart Cc of 40 CFR part 60, must submit a revised design plan to the Administrator for approval as follows:

(1) At least 90 days before expanding operations to an area not covered by the previously approved design plan.

(2) Prior to installing or expanding the gas collection system in a way that is not consistent with the design plan that was submitted to the Administrator

according to paragraph (d) of this section.

(f) *Closure report.* Each owner or operator of a controlled landfill must submit a closure report to the Administrator within 30 days of ceasing waste acceptance. The Administrator may request additional information as may be necessary to verify that permanent closure has taken place in accordance with the requirements of 40 CFR 258.60. If a closure report has been submitted to the Administrator, no additional wastes may be placed into the landfill without filing a notification of modification as described under 40 CFR 60.7(a)(4).

(g) *Equipment removal report.* Each owner or operator of a controlled landfill must submit an equipment removal report to the Administrator 30 days prior to removal or cessation of operation of the control equipment.

(1) The equipment removal report must contain the following items:

(i) A copy of the closure report submitted in accordance with paragraph (f) of this section; and

(ii) A copy of the initial performance test report demonstrating that the 15-year minimum control period has expired, unless the report of the results of the performance test has been submitted to the EPA via the EPA's Central Data Exchange (CDX), or information that demonstrates that the gas collection and control system will be unable to operate for 15 years due to declining gas flows. In the equipment removal report, the process unit(s) tested, the pollutant(s) tested, and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX; and

(iii) Dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 34 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports; or

(iv) For the closed landfill subcategory, dated copies of three successive NMOC emission rate reports demonstrating that the landfill is no longer producing 50 megagrams or greater of NMOC per year, unless the NMOC emission rate reports have been submitted to the EPA via the EPA's CDX. If the NMOC emission rate reports have been previously submitted to the EPA's CDX, a statement that the NMOC emission rate reports have been submitted electronically and the dates that the reports were submitted to the EPA's CDX may be submitted in the equipment removal report in lieu of the NMOC emission rate reports.

(2) The Administrator may request such additional information as may be necessary to verify that all of the conditions for removal in § 62.16714(f) have been met.

(h) *Annual report.* The owner or operator of a landfill seeking to comply with § 62.16714(e)(2) using an active collection system designed in accordance with § 62.16714(b) must submit to the Administrator, following the procedures specified in paragraph (j)(2) of this section, an annual report of the recorded information in paragraphs (h)(1) through (7) of this section. The initial annual report must be submitted within 180 days of installation and startup of the collection and control system except for legacy controlled landfills that have already submitted an initial report under 40 CFR part 60, subpart WWW; subpart GGG of this part; or a state plan implementing 40 CFR part 60, subpart Cc. Except for legacy controlled landfills, the initial annual report must include the initial performance test report required under 40 CFR 60.8, as applicable, unless the report of the results of the performance test has been submitted to the EPA via the EPA's CDX. Legacy controlled landfills are exempted from submitting performance test reports in EPA's CDX provided that those reports were submitted under 40 CFR part 60, subpart WWW; subpart GGG of this part; or a state plan implementing 40 CFR part 60, subpart Cc. In the initial annual report, the process unit(s) tested, the pollutant(s) tested and the date that such performance test was conducted may be submitted in lieu of the performance test report if the report has been previously submitted to the EPA's CDX. The initial performance test report must be submitted, following the procedure specified in paragraph (j)(1) of this section, no later than the date that the initial annual report is submitted. For enclosed combustion devices and flares, reportable exceedances are defined under § 62.16726(c)(1). Legacy controlled landfills are required to submit the annual report no later than one year after the most recent annual report submitted. If complying with the operational provisions of §§ 63.1958, 63.1960, and 63.1961 of this chapter, as allowed at §§ 62.16716, 62.16720, and 62.16722, the owner or operator must follow the semi-annual reporting requirements in § 63.1981(h) of this chapter in lieu of this paragraph.

(1) Value and length of time for exceedance of applicable parameters monitored under § 62.16722(a)(1), (b), (c), (d), and (g).

(2) Description and duration of all periods when the gas stream was diverted from the control device or treatment system through a bypass line or the indication of bypass flow as specified under § 62.16722.

(3) Description and duration of all periods when the control device or treatment system was not operating and length of time the control device or treatment system was not operating.

(4) All periods when the collection system was not operating.

(5) The location of each exceedance of the 500 parts-per-million methane concentration as provided in § 62.16716(d) and the concentration recorded at each location for which an exceedance was recorded in the previous month. For location, you must determine the latitude and longitude coordinates using an instrument with an accuracy of at least 4 meters. The coordinates must be in decimal degrees with at least five decimal places.

(6) The date of installation and the location of each well or collection system expansion added pursuant to § 62.16720(a)(3), (4), (b), and (c)(4).

(7) For any corrective action analysis for which corrective actions are required in § 62.16720(a)(3) or (4) and that take more than 60 days to correct the exceedance, the root cause analysis conducted, including a description of the recommended corrective action(s), the date for corrective action(s) already completed following the positive pressure or elevated temperature reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(i) *Initial performance test report.* Each owner or operator seeking to comply with § 62.16714(c) must include the following information with the initial performance test report required under 40 CFR 60.8 of this chapter:

(1) A diagram of the collection system showing collection system positioning including all wells, horizontal collectors, surface collectors, or other gas extraction devices, including the locations of any areas excluded from collection and the proposed sites for the future collection system expansion;

(2) The data upon which the sufficient density of wells, horizontal collectors, surface collectors, or other gas

extraction devices and the gas mover equipment sizing are based;

(3) The documentation of the presence of asbestos or nondegradable material for each area from which collection wells have been excluded based on the presence of asbestos or nondegradable material;

(4) The sum of the gas generation flow rates for all areas from which collection wells have been excluded based on nonproductivity and the calculations of gas generation flow rate for each excluded area;

(5) The provisions for increasing gas mover equipment capacity with increased gas generation flow rate, if the present gas mover equipment is inadequate to move the maximum flow rate expected over the life of the landfill; and

(6) The provisions for the control of off-site migration.

(j) *Electronic reporting.* The owner or operator must submit reports electronically according to paragraphs (j)(1) and (2) of this section.

(1) Within 60 days after the date of completing each performance test (as defined in 40 CFR 60.8 of this chapter), the owner or operator must submit the results of each performance test according to the following procedures:

(i) For data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www3.epa.gov/ttn/chief/ert/ert_info.html*) at the time of the test, you must submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI). The CEDRI can be accessed through the EPA's CDX (*https://cdx.epa.gov/*). Performance test data must be submitted in a file format generated through the use of the EPA's ERT or an alternative file format consistent with the extensible markup language (XML) schema listed on the EPA's ERT website, once the XML schema is available. If you claim that some of the performance test information being submitted is confidential business information (CBI), you must submit a complete file generated through the use of the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website, including information claimed to be CBI, on a compact disc, flash drive, or other commonly used electronic storage media to the EPA. The electronic media must be clearly marked as CBI and mailed to U.S. EPA/OAQPS/CORE CBI Office, Attention: Group Leader, Measurement Policy Group, MD C404–02, 4930 Old Page Rd., Durham, NC 27703. The same ERT or alternate file with the CBI omitted must be submitted to the EPA via the EPA's CDX as described earlier in this paragraph.

(ii) For data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test, you must submit the results of the performance test to the Administrator at the appropriate address listed in 40 CFR 60.4 of this chapter.

(2) Each owner or operator required to submit reports following the procedure specified in this paragraph must submit reports to the EPA via the CEDRI (CEDRI can be accessed through the EPA's CDX). The owner or operator must use the appropriate electronic report in CEDRI for this subpart or an alternate electronic file format consistent with the XML schema listed on the CEDRI website (*https://www3.epa.gov/ttn/chief/cedri/index.html*). If the reporting form specific to this subpart is not available in CEDRI at the time that the report is due, the owner or operator must submit the report to the Administrator at the appropriate address listed in 40 CFR 60.4 of this chapter. Once the form has been available in CEDRI for 90 calendar days, the owner or operator must begin submitting all subsequent reports via CEDRI. The reports must be submitted by the deadlines specified in this subpart, regardless of the method in which the reports are submitted.

(k) *Corrective action and the corresponding timeline.* The owner or operator must submit according to paragraphs (k)(1) and (2) of this section. If complying with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961 of this chapter, as allowed at §§ 62.16716, 62.16720, and 62.16722, the owner or operator must follow the corrective action and the corresponding timeline reporting requirements in § 63.1981(j) of this chapter in lieu of paragraphs (k)(1) and (2) of this section.

(1) For corrective action that is required according to § 62.16720(a)(3)(iii) or 62.16720(a)(4)(iii) and is expected to take longer than 120 days after the initial exceedance to complete, you must submit the root cause analysis, corrective action analysis, and corresponding implementation timeline to the Administrator as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above. The Administrator must approve the plan for corrective action and the corresponding timeline.

(2) For corrective action that is required according to § 62.16720(a)(3)(iii) or § 62.16720(a)(4)(iii) and is not completed within 60 days after the initial exceedance, you must submit a notification to the Administrator as soon as practicable but no later than 75 days after the first measurement of positive pressure or temperature exceedance.

(l) *Liquids addition.* The owner or operator of a designated facility with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters that has employed leachate recirculation or added liquids based on a Research, Development, and Demonstration permit (issued through Resource Conservation and Recovery Act (RCRA), subtitle D, part 258) within the last 10 years must submit to the Administrator, annually, following the procedure specified in paragraph (j)(2) of this section, the following information:

(1) Volume of leachate recirculated (gallons per year) and the reported basis of those estimates (records or engineering estimates).

(2) Total volume of all other liquids added (gallons per year) and the reported basis of those estimates (records or engineering estimates).

(3) Surface area (acres) over which the leachate is recirculated (or otherwise applied).

(4) Surface area (acres) over which any other liquids are applied.

(5) The total waste disposed (megagrams) in the areas with recirculated leachate and/or added liquids based on on-site records to the extent data are available, or engineering estimates and the reported basis of those estimates.

(6) The annual waste acceptance rates (megagrams per year) in the areas with recirculated leachate and/or added liquids, based on on-site records to the extent data are available, or engineering estimates.

(7) The initial report must contain items in paragraph (l)(1) through (6) of this section per year for the most recent 365 days as well as for each of the previous 10 years, to the extent historical data are available in on-site records, and the report must be submitted no later than June 21, 2022.

(8) Subsequent annual reports must contain items in paragraph (l)(1) through (6) of this section for the 365-day period following the 365-day period included in the previous annual report, and the report must be submitted no later than 365 days after the date the previous report was submitted.

(9) Landfills in the closed landfill subcategory are exempt from reporting

requirements contained in paragraphs (l)(1) through (7) of this section.

(10) Landfills may cease annual reporting of items in paragraphs (l)(1) through (6) of this section once they have submitted the closure report in § 62.16724(f).

(m) *Tier 4 notification.* (1) The owner or operator of a designated facility with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters must provide a notification of the date(s) upon which it intends to demonstrate site-specific surface methane emissions are below 500 parts-per-million methane, based on the Tier 4 provisions of § 62.16718(a)(6). The landfill must also include a description of the wind barrier to be used during the SEM in the notification. Notification must be postmarked not less than 30 days prior to such date.

(2) If there is a delay to the scheduled Tier 4 SEM date due to weather conditions, including not meeting the wind requirements in § 62.16718(a)(6)(A), the owner or operator of a landfill shall notify the Administrator by email or telephone no later than 48 hours before any known delay in the original test date, and arrange an updated date with the Administrator by mutual agreement.

(n) *Notification of meeting Tier 4.* The owner or operator of a designated facility must submit a notification to the EPA Regional office within 10 business days of completing each increment of progress. Each notification must indicate which increment of progress specified in § 62.16712 has been achieved. The notification must be signed by the owner or operator of the landfill.

(1) For the first increment of progress (submit control plan), you must follow paragraph (p) of this section in addition to submitting the notification described in paragraph (n) of this section. A copy of the design plan must also be kept on site at the landfill.

(2) For the second increment of progress, a signed copy of the contract(s) awarded must be submitted in addition to the notification described in paragraph (n) of this section.

(o) *Notification of failing to meet an increment of progress.* The owner or operator of a designated facility who fails to meet any increment of progress specified in § 62.16712(a)(1) through (5) according to the applicable schedule in § 62.16712 must submit notification that the owner or operator failed to meet the increment to the EPA Regional office within 10 business days of the applicable date in § 62.16712.

(p) *Alternate dates for increments 2 and 3.* The owner or operator (or the state or tribal air pollution control authority) that is submitting alternative dates for increments 2 and 3 according to § 62.16712(d) must do so by the date specified for submitting the final control plan. The date for submitting the final control plan is specified in § 62.16712(c), as applicable. The owner or operator (or the state or tribal air pollution control authority) must submit a justification if any of the alternative dates are later than the increment dates in table 1 of this subpart. In addition to submitting the alternative dates to the appropriate EPA Regional office, the owner or operator must also submit the alternative dates to the state or tribe.

(q) *24-hour high temperature report.* Each owner or operator that chooses to comply with the provisions in §§ 63.1958, 63.1960, and 63.1961 of this chapter, as allowed in §§ 62.16716, 62.16720, and 62.16722, must submit the 24-hour high temperature report according to § 63.1981(k) of this chapter.

§ 62.16726 Recordkeeping guidelines.

Follow the recordkeeping provisions in this section.

(a) Except as provided in § 62.16724(d)(2), each owner or operator of an MSW landfill subject to the provisions of § 62.16714(e) must keep for at least 5 years up-to-date, readily accessible, on-site records of the design capacity report that triggered § 62.16714(e), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(b) Except as provided in § 62.16724(d)(2), each owner or operator of a controlled landfill must keep up-to-date, readily accessible records for the life of the control system equipment of the data listed in paragraphs (b)(1) through (5) of this section as measured during the initial performance test or compliance determination. Records of subsequent tests or monitoring must be maintained for a minimum of 5 years. Records of the control device vendor specifications must be maintained until removal.

(1) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 62.16714(b):

(i) The maximum expected gas generation flow rate as calculated in § 62.16720(a)(1). The owner or operator may use another method to determine the maximum gas generation flow rate, if the method has been approved by the Administrator.

(ii) The density of wells, horizontal collectors, surface collectors, or other gas extraction devices determined using the procedures specified in § 62.16728(a)(1).

(2) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 62.16714(c) through use of an enclosed combustion device other than a boiler or process heater with a design heat input capacity equal to or greater than 44 megawatts:

(i) The average temperature measured at least every 15 minutes and averaged over the same time period of the performance test.

(ii) The percent reduction of NMOC determined as specified in § 62.16714(c)(2) achieved by the control device.

(3) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 62.16714(c)(2)(i) through use of a boiler or process heater of any size: A description of the location at which the collected gas vent stream is introduced into the boiler or process heater over the same time period of the performance testing.

(4) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 62.16714(c)(1) through use of a non-enclosed flare, the flare type (*i.e.,* steam-assisted, air-assisted, or non-assisted), all visible emission readings, heat content determination, flow rate or bypass flow rate measurements, and exit velocity determinations made during the performance test as specified in 40 CFR 60.18 of this chapter; and continuous records of the flare pilot flame or flare flame monitoring and records of all periods of operations during which the pilot flame or the flare flame is absent.

(5) Where an owner or operator subject to the provisions of this subpart seeks to demonstrate compliance with § 62.16714(c)(3) through use of a landfill gas treatment system:

(i) *Bypass records.* Records of the flow of landfill gas to, and bypass of, the treatment system.

(ii) *Site-specific treatment monitoring plan.* A site-specific treatment monitoring plan, to include:

(A) Monitoring records of parameters that are identified in the treatment system monitoring plan and that ensure the treatment system is operating properly for each intended end use of the treated landfill gas. At a minimum, records should include records of filtration, de-watering, and compression parameters that ensure the treatment system is operating properly for each

intended end use of the treated landfill gas.

(B) Monitoring methods, frequencies, and operating ranges for each monitored operating parameter based on manufacturer's recommendations or engineering analysis for each intended end use of the treated landfill gas.

(C) Documentation of the monitoring methods and ranges, along with justification for their use.

(D) Identify who is responsible (by job title) for data collection.

(E) Processes and methods used to collect the necessary data.

(F) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems.

(c) Except as provided in § 62.16724(d)(2), each owner or operator of a controlled landfill subject to the provisions of this subpart must keep for 5 years up-to-date, readily accessible continuous records of the equipment operating parameters specified to be monitored in § 62.16722 as well as up-to-date, readily accessible records for periods of operation during which the parameter boundaries established during the most recent performance test are exceeded.

(1) The following constitute exceedances that must be recorded and reported under § 62.16724:

(i) For enclosed combustors except for boilers and process heaters with design heat input capacity of 44 megawatts (150 million British thermal unit per hour) or greater, all 3-hour periods of operation during which the average temperature was more than 28 degrees Celsius (82 degrees Fahrenheit) below the average combustion temperature during the most recent performance test at which compliance with § 62.16714(c) was determined.

(ii) For boilers or process heaters, whenever there is a change in the location at which the vent stream is introduced into the flame zone as required under paragraph (b)(3) of this section.

(2) Each owner or operator subject to the provisions of this subpart must keep up-to-date, readily accessible continuous records of the indication of flow to the control system and the indication of bypass flow or records of monthly inspections of car-seals or lock-and-key configurations used to seal bypass lines, specified under § 62.16722.

(3) Each owner or operator subject to the provisions of this subpart who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with § 62.16714(c) must keep an up-to-date, readily accessible record of all periods of operation of the boiler or process heater. Examples of such records could include records of steam use, fuel use, or monitoring data collected pursuant to other state, local, tribal, or Federal regulatory requirements.

(4) Each owner or operator seeking to comply with the provisions of this subpart by use of a non-enclosed flare must keep up-to-date, readily accessible continuous records of the flame or flare pilot flame monitoring specified under § 62.16722(c), and up-to-date, readily accessible records of all periods of operation in which the flame or flare pilot flame is absent.

(5) Each owner or operator of a landfill seeking to comply with § 62.16714(e) using an active collection system designed in accordance with § 62.16714(b) must keep records of periods when the collection system or control device is not operating.

(d) Except as provided in § 62.16724(d)(2), each owner or operator subject to the provisions of this subpart must keep for the life of the collection system an up-to-date, readily accessible plot map showing each existing and planned collector in the system and providing a unique identification location label on each collector that matches the labeling on the plot map.

(1) Each owner or operator subject to the provisions of this subpart must keep up-to-date, readily accessible records of the installation date and location of all newly installed collectors as specified under § 62.16720(b).

(2) Each owner or operator subject to the provisions of this subpart must keep readily accessible documentation of the nature, date of deposition, amount, and location of asbestos-containing or nondegradable waste excluded from collection as provided in § 62.16728(a)(3)(i) as well as any nonproductive areas excluded from collection as provided in § 62.16728(a)(3)(ii).

(e) Except as provided in § 62.16724(d)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of the items in paragraphs (e)(1) through (5) of this section. Each owner or operator that chooses to comply with the provisions in §§ 63.1958, 63.1960, and 63.1961 of this chapter, as allowed in §§ 62.16716, 62.16720, and 62.16722, must keep the records in paragraph (e)(6) of this section and must keep records according to § 63.1983(e)(1) through (5) of this chapter in lieu of paragraphs (e)(1) through (5) of this section.

(1) All collection and control system exceedances of the operational standards in § 62.16716, the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance.

(2) Each owner or operator subject to the provisions of this subpart must also keep records of each wellhead temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above, each wellhead nitrogen level at or above 20 percent, and each wellhead oxygen level at or above 5 percent.

(3) For any root cause analysis for which corrective actions are required in § 62.16720(a)(3) or § 62.16720(a)(4), keep a record of the root cause analysis conducted, including a description of the recommended corrective action(s) taken, and the date(s) the corrective action(s) were completed.

(4) For any root cause analysis for which corrective actions are required in § 62.16720(a)(3)(ii) or § 62.16720(a)(4)(ii), keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, and, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates.

(5) For any root cause analysis for which corrective actions are required in § 62.16720(a)(3)(iii) or § 62.16720(a)(4)(iii), keep a record of the root cause analysis conducted, the corrective action analysis, the date for corrective action(s) already completed following the positive pressure reading or high temperature reading, for action(s) not already completed, a schedule for implementation, including proposed commencement and completion dates, and a copy of any comments or final approval on the corrective action analysis or schedule from the regulatory agency.

(6) Each owner or operator that chooses to comply with the provisions in §§ 63.1958, 63.1960, and 63.1961 of this chapter, as allowed in §§ 62.16716, 62.16720, and 62.16722, must keep records of the date upon which the owner or operator started complying with the provisions in §§ 63.1958, 63.1960, and 63.1961 of this chapter.

(f) Landfill owners or operators who convert design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of ''design capacity,'' must keep readily accessible, on-site records of the annual recalculation of site-specific density, design capacity, and

the supporting documentation. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(g) Landfill owners or operators seeking to demonstrate that site-specific surface methane emissions are below 500 parts-per-million by conducting SEM under the Tier 4 procedures specified in § 62.16718(a)(6) must keep for at least 5 years up-to-date, readily accessible records of all SEM and information related to monitoring instrument calibrations conducted according to sections 8 and 10 of EPA Method 21 of appendix A–7 of 40 CFR part 60 of this chapter, including all of the following items:

(1) Calibration records.

(i) Date of calibration and initials of operator performing the calibration.

(ii) Calibration gas cylinder identification, certification date, and certified concentration.

(iii) Instrument scale(s) used.

(iv) A description of any corrective action taken if the meter readout could not be adjusted to correspond to the calibration gas value.

(v) If an owner or operator makes their own calibration gas, a description of the procedure used.

(2) Digital photographs of the instrument setup. The photographs must be time and date-stamped and taken at the first sampling location prior to sampling and at the last sampling location after sampling at the end of each sampling day, for the duration of the Tier 4 monitoring demonstration.

(3) Timestamp of each surface scan reading.

(i) Timestamp should be detailed to the nearest second, based on when the sample collection begins.

(ii) A log for the length of time each sample was taken using a stopwatch (*e.g.,* the time the probe was held over the area).

(4) Location of each surface scan reading. The owner or operator must determine the coordinates using an instrument with an accuracy of at least 4 meters. Coordinates must be in decimal degrees with at least five decimal places.

(5) Monitored methane concentration (parts per million) of each reading.

(6) Background methane concentration (parts per million) after each instrument calibration test.

(7) Adjusted methane concentration using most recent calibration (parts-per-million).

(8) For readings taken at each surface penetration, the unique identification location label matching the label specified in paragraph (d) of this section.

(9) Records of the operating hours of the gas collection system for each destruction device.

(h) Except as provided in § 62.16724(d)(2), each owner or operator subject to the provisions of this subpart must keep for at least 5 years up-to-date, readily accessible records of all collection and control system monitoring data for parameters measured in § 62.16722(a)(1), (2), and (3).

(i) Any records required to be maintained by this subpart that are submitted electronically via the EPA's CDX may be maintained in electronic format.

(j) For each owner or operator reporting leachate or other liquids addition under § 62.16724(l), keep records of any engineering calculations or company records used to estimate the quantities of leachate or liquids added, the surface areas for which the leachate or liquids were applied, and the estimates of annual waste acceptance or total waste in place in the areas where leachate or liquids were applied.

§ 62.16728 Specifications for active collection systems.

Follow the specifications for active collection systems in this section.

(a) Each owner or operator seeking to comply with § 62.16714(b) must site active collection wells, horizontal collectors, surface collectors, or other extraction devices at a sufficient density throughout all gas producing areas using the following procedures unless alternative procedures have been approved by the Administrator.

(1) The collection devices within the interior must be certified to achieve comprehensive control of surface gas emissions by a professional engineer. The following issues must be addressed in the design: Depths of refuse, refuse gas generation rates and flow characteristics, cover properties, gas system expandability, leachate and condensate management, accessibility, compatibility with filling operations, integration with closure end use, air intrusion control, corrosion resistance, fill settlement, resistance to the refuse decomposition heat, and ability to isolate individual components or sections for repair or troubleshooting without shutting down entire collection system.

(2) The sufficient density of gas collection devices determined in paragraph (a)(1) of this section must address landfill gas migration issues and augmentation of the collection system through the use of active or passive systems at the landfill perimeter or exterior.

(3) The placement of gas collection devices determined in paragraph (a)(1) of this section must control all gas producing areas, except as provided by paragraphs (a)(3)(i) and (ii) of this section.

(i) Any segregated area of asbestos or nondegradable material may be excluded from collection if documented as provided under § 62.16726(d). The documentation must provide the nature, date of deposition, location and amount of asbestos or nondegradable material deposited in the area, and must be provided to the Administrator upon request.

(ii) Any nonproductive area of the landfill may be excluded from control, provided that the total of all excluded areas can be shown to contribute less than 1 percent of the total amount of NMOC emissions from the landfill. The amount, location, and age of the material must be documented and provided to the Administrator upon request. A separate NMOC emissions estimate must be made for each section proposed for exclusion, and the sum of all such sections must be compared to the NMOC emissions estimate for the entire landfill.

(A) The NMOC emissions from each section proposed for exclusion must be computed using Equation 7:

$$Q_i = 2kL_oM_i(e^{-kt_i})(C_{NMOC})(3.6\times10^{-9}) \quad \text{(Eq. 7)}$$

Where:

Q_i = NMOC emission rate from the ith section, megagrams per year.

k = Methane generation rate constant, year $^{-1}$.

L_o = Methane generation potential, cubic meters per megagram solid waste.

M_i = Mass of the degradable solid waste in the ith section, megagram.

t_i = Age of the solid waste in the ith section, years.

C_{NMOC} = Concentration of NMOC, parts-per-million by volume.

3.6×10^{-9} = Conversion factor.

(B) If the owner or operator is proposing to exclude, or cease gas collection and control from, nonproductive physically separated (*e.g.,* separately lined) closed areas that already have gas collection systems, NMOC emissions from each physically separated closed area must be computed using either Equation 3 in § 62.16718 or Equation 7 in paragraph (a)(3)(ii)(A) of this section.

(iii) The values for k and C_{NMOC} determined in field testing must be used if field testing has been performed in determining the NMOC emission rate or the radii of influence (the distance from the well center to a point in the landfill where the pressure gradient applied by the blower or compressor approaches zero). If field testing has not been performed, the default values for k, Lo, and C_{NMOC} provided in § 62.16718 or the alternative values from § 62.16718 must be used. The mass of nondegradable solid waste contained within the given section may be subtracted from the total mass of the section when estimating emissions provided the nature, location, age, and amount of the nondegradable material is documented as provided in paragraph (a)(3)(i) of this section.

(b) Each owner or operator seeking to comply with § 62.16714(b) must construct the gas collection devices using the following equipment or procedures:

(1) The landfill gas extraction components must be constructed of polyvinyl chloride (PVC), high density polyethylene (HDPE) pipe, fiberglass, stainless steel, or other nonporous corrosion resistant material of suitable dimensions to: Convey projected amounts of gases; withstand installation, static, and settlement forces; and withstand planned overburden or traffic loads. The collection system must extend as necessary to comply with emission and migration standards. Collection devices such as wells and horizontal collectors must be perforated to allow gas entry without head loss sufficient to impair performance across the intended extent of control. Perforations must be situated with regard to the need to prevent excessive air infiltration.

(2) Vertical wells must be placed so as not to endanger underlying liners and must address the occurrence of water within the landfill. Holes and trenches constructed for piped wells and horizontal collectors must be of sufficient cross-section so as to allow for their proper construction and completion including, for example, centering of pipes and placement of gravel backfill. Collection devices must be designed so as not to allow indirect short circuiting of air into the cover or refuse into the collection system or gas into the air. Any gravel used around pipe perforations should be of a dimension so as not to penetrate or block perforations.

(3) Collection devices may be connected to the collection header pipes below or above the landfill surface. The connector assembly must include a positive closing throttle valve, any necessary seals and couplings, access couplings and at least one sampling port. The collection devices must be constructed of PVC, HDPE, fiberglass, stainless steel, or other nonporous material of suitable thickness.

(c) Each owner or operator seeking to comply with § 62.16714(c) must convey the landfill gas to a control system in compliance with § 62.16714(c) through the collection header pipe(s). The gas mover equipment must be sized to handle the maximum gas generation flow rate expected over the intended use period of the gas moving equipment using the following procedures:

(1) For existing collection systems, the flow data must be used to project the maximum flow rate. If no flow data exist, the procedures in paragraph (c)(2) of this section must be used.

(2) For new collection systems, the maximum flow rate must be in accordance with § 62.16720(a)(1).

§ 62.16730 Definitions.

Terms used but not defined in this subpart have the meaning given them in the Clean Air Act and in subparts A and B of 40 CFR part 60 of this chapter.

Achieve final compliance means to connect and operate the collection and control system as specified in the final control plan. Within 180 days after the date the landfill is required to achieve final compliance, the initial performance test must be conducted.

Active collection system means a gas collection system that uses gas mover equipment.

Active landfill means a landfill in which solid waste is being placed or a landfill that is planned to accept waste in the future.

Administrator means the Administrator of the U.S. Environmental Protection Agency or his/her authorized representative or the Administrator of a state air pollution control agency.

Award contract means the MSW landfill owner or operator enters into legally binding agreements or contractual obligations that cannot be canceled or modified without substantial financial loss to the MSW landfill owner or operator. The MSW landfill owner or operator may award a number of contracts to install the collection and control system. To meet this increment of progress, the MSW landfill owner or operator must award a contract or contracts to initiate on-site construction or installation of the collection and control system.

Closed landfill means a landfill in which solid waste is no longer being placed, and in which no additional solid wastes will be placed without first filing a notification of modification as prescribed under 40 CFR 60.7(a)(4) of this chapter. Once a notification of modification has been filed, and additional solid waste is placed in the landfill, the landfill is no longer closed.

Closed area means a separately lined area of an MSW landfill in which solid waste is no longer being placed. If additional solid waste is placed in that area of the landfill, that landfill area is no longer closed. The area must be separately lined to ensure that the landfill gas does not migrate between open and closed areas.

Closed landfill subcategory means a closed landfill that has submitted a closure report as specified in § 62.16724(f) on or before September 27, 2017.

Closure means that point in time when a landfill becomes a closed landfill.

Commercial solid waste means all types of solid waste generated by stores, offices, restaurants, warehouses, and other nonmanufacturing activities, excluding residential and industrial wastes.

Complete on-site construction means that all necessary collection system components and air pollution control devices identified in the final control

plan are on site, in place, and ready for operation.

Controlled landfill means any landfill at which collection and control systems are required under this subpart as a result of the NMOC emission rate. The landfill is considered controlled at the time a collection and control system design plan is prepared in compliance with § 62.16714(e)(2). Controlled landfills also includes those landfills that meet the definition of *legacy controlled landfills,* as defined in this subpart.

Corrective action analysis means a description of all reasonable interim and long-term measures, if any, that are available, and an explanation of why the selected corrective action(s) is/are the best alternative(s), including, but not limited to, considerations of cost effectiveness, technical feasibility, safety, and secondary impacts.

Design capacity means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by the state, local, or tribal agency responsible for regulating the landfill, plus any in-place waste not accounted for in the most recent permit. If the owner or operator chooses to convert the design capacity from volume to mass or from mass to volume to demonstrate its design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, the calculation must include a site-specific density, which must be recalculated annually.

Disposal facility means all contiguous land and structures, other appurtenances, and improvements on the land used for the disposal of solid waste.

Emission rate cutoff means the threshold annual emission rate to which a landfill compares its estimated emission rate to determine if control under the regulation is required.

Enclosed combustor means an enclosed firebox which maintains a relatively constant limited peak temperature generally using a limited supply of combustion air. An enclosed flare is considered an enclosed combustor.

EPA approved state plan means a state plan that EPA has approved based on the requirements in 40 CFR part 60, subpart B or Ba to implement and enforce 40 CFR part 60, subpart Cf. An approved state plan becomes effective on the date specified in the document published in the **Federal Register** announcing EPA's approval.

Flare means an open combustor without enclosure or shroud.

Final control plan (Collection and control system design plan) means a plan that describes the collection and control system that will capture the gas generated within an MSW landfill. The collection and control system design plan must be prepared by a professional engineer and must describe a collection and control system that meets the requirements of § 62.1614(b) and (c). The final control plan must contain engineering specifications and drawings of the collection and control system. The final control plan must include any alternatives to the operational standards, test methods, procedures, compliance measures, monitoring, recordkeeping, or reporting provisions of §§ 62.16716 through 62.16726 proposed by the owner or operator. The final control plan must either conform with the specifications for active collection systems in § 62.16728 or include a demonstration that shows that based on the size of the landfill and the amount of waste expected to be accepted, the system is sized properly to collect the gas, control emissions of NMOC to the required level and meet the operational standards for a landfill.

Gas mover equipment means the equipment (*i.e.,* fan, blower, compressor) used to transport landfill gas through the header system.

Gust means the highest instantaneous wind speed that occurs over a 3-second running average.

Indian Country means all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

Initiate on-site construction means to begin any of the following: Installation of the collection and control system to be used to comply with the emission limits as outlined in the final control plan; physical preparation necessary for the installation of the collection and control system to be used to comply with the final emission limits as outlined in the final control plan; or, alteration of an existing collection and control system to be used to comply with the final emission limits as outlined in the final control plan.

Household waste means any solid waste (including garbage, trash, and sanitary waste in septic tanks) derived from households (including, but not limited to, single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). Household waste does not include fully segregated yard waste. Segregated yard waste means vegetative matter resulting exclusively from the cutting of grass, the pruning and/or removal of bushes, shrubs, and trees, the weeding of gardens, and other landscaping maintenance activities. Household waste does not include construction, renovation, or demolition wastes, even if originating from a household.

Industrial solid waste means solid waste generated by manufacturing or industrial processes that is not a hazardous waste regulated under Subtitle C of the RCRA, parts 264 and 265 of this chapter. Such waste may include, but is not limited to, waste resulting from the following manufacturing processes: Electric power generation; fertilizer/agricultural chemicals; food and related products/by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

Interior well means any well or similar collection component located inside the perimeter of the landfill waste. A perimeter well located outside the landfilled waste is not an interior well.

Landfill means an area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile as those terms are defined under § 257.2 of this title.

Lateral expansion means a horizontal expansion of the waste boundaries of an existing MSW landfill. A lateral expansion is not a modification unless it results in an increase in the design capacity of the landfill.

Leachate recirculation means the practice of taking the leachate collected from the landfill and reapplying it to the landfill by any of one of a variety of methods, including pre-wetting of the waste, direct discharge into the working face, spraying, infiltration ponds, vertical injection wells, horizontal gravity distribution systems, and pressure distribution systems.

Legacy controlled landfill means any MSW landfill subject to this subpart that submitted a collection and control system design plan prior to May 21, 2021 in compliance with § 60.752(b)(2)(i) of this chapter, the Federal plan at subpart GGG of this part, or a state/tribal plan implementing 40 CFR part 60, subpart Cc of this chapter, depending on which regulation was applicable to the landfill. This definition applies to those landfills that completed construction and began operations of the GCCS and those that are within the 30-month timeline for installation and start-up of a GCCS according to § 60.752(b)(2)(ii) of this chapter, the Federal plan at subpart GGG of this part, or a state/tribal plan implementing 40 CFR part 60, subpart Cc.

Modification means an increase in the permitted volume design capacity of the landfill by either lateral or vertical expansion based on its permitted design capacity as of July 17, 2014. Modification does not occur until the owner or operator commences construction on the lateral or vertical expansion.

Municipal solid waste landfill or *MSW landfill* means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. An MSW landfill may also receive other types of RCRA, Subtitle D wastes (§ 257.2 of this title) such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Portions of an MSW landfill may be separated by access roads. An MSW landfill may be publicly or privately owned. An MSW landfill may be a new MSW landfill, an existing MSW landfill, or a lateral expansion.

Municipal solid waste landfill emissions or *MSW landfill emissions* means gas generated by the decomposition of organic waste deposited in an MSW landfill or derived from the evolution of organic compounds in the waste.

NMOC means nonmethane organic compounds, as measured according to the provisions of § 62.16718.

Negative declaration letter means a letter to EPA declaring that there are no existing MSW landfills in the state or that there are no existing MSW landfills in the state that must install collection and control systems according to the requirements of 40 CFR part 60, subpart Cf.

Nondegradable waste means any waste that does not decompose through chemical breakdown or microbiological activity. Examples are, but are not limited to, concrete, municipal waste combustor ash, and metals.

Passive collection system means a gas collection system that solely uses positive pressure within the landfill to move the gas rather than using gas mover equipment.

Protectorate means American Samoa, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Northern Mariana Islands, and the Virgin Islands.

Root cause analysis means an assessment conducted through a process of investigation to determine the primary cause, and any other contributing causes, of positive pressure at a wellhead.

Sludge means the term sludge as defined in 40 CFR 258.2.

Solid waste means the term solid waste as defined in 40 CFR 258.2.

State means any of the 50 United States and the protectorates of the United States.

State plan means a plan submitted pursuant to section 111(d) of the Clean Air Act and subpart B of part 60 of this chapter that implements and enforces subpart Cf of 40 CFR part 60 of this chapter.

Sufficient density means any number, spacing, and combination of collection system components, including vertical wells, horizontal collectors, and surface collectors necessary to maintain emission and migration control as determined by measures of performance set forth in this part.

Sufficient extraction rate means a rate sufficient to maintain a negative pressure at all wellheads in the collection system without causing air infiltration, including any wellheads connected to the system as a result of expansion or excess surface emissions, for the life of the blower.

Treated landfill gas means landfill gas processed in a treatment system as defined in this subpart.

Treatment system means a system that filters, de-waters, and compresses landfill gas for sale or beneficial use.

Tribal plan means a plan submitted by a Tribal Authority pursuant to 40 CFR parts 9, 35, 49, 50, and 81 that implements and enforces 40 CFR part 60, subpart Cf.

Untreated landfill gas means any landfill gas that is not treated landfill gas.

TABLE 1 TO SUBPART OOO OF PART 62—GENERIC COMPLIANCE SCHEDULE AND INCREMENTS OF PROGRESS

Increment	Date if using tiers 1, 2, or 3	Date if using tier 4	Date if a legacy controlled landfill
Increment 1—Submit cover page of final control plan.	1 year after initial NMOC emission rate report or the first annual emission rate report showing NMOC emissions ≥34 megagrams per year.[1].	1 year after the first measured concentration of methane of 500 parts per million or greater from the surface of the landfill.	1 year after the first NMOC emission rate report or the first annual emission rate report showing NMOC emissions ≥50 megagrams per year submitted under a previous regulation.[2]
Increment 2—Award Contracts.	20 months after initial NMOC emission rate report or the first annual emission rate report showing NMOC emissions ≥34 megagrams per year.[1].	20 months after the most recent NMOC emission rate report showing NMOC emissions ≥34 megagrams per year.	20 months after the most recent NMOC emission rate report showing NMOC emissions ≥50 megagrams per year submitted under a previous regulation.[2]
Increment 3—Begin on-site construction.	24 months after initial NMOC emission rate report or the first annual emission rate report showing NMOC emissions ≥34 megagrams per year.[1].	24 months after the most recent NMOC emission rate report showing NMOC emissions ≥34 megagrams per year.	24 months after the most recent NMOC emission rate report showing NMOC emissions ≥50 megagrams per year submitted under a previous regulation.[2]
Increment 4—Complete on-site construction.	30 months after initial NMOC emission rate report or the first annual emission rate report showing NMOC emissions ≥34 megagrams per year.[1].	30 months after the most recent NMOC emission rate report showing NMOC emissions ≥34 megagrams per year.	30 months after the first NMOC emission rate report or the first annual emission rate report showing NMOC emissions ≥50 megagrams submitted under a previous regulation.

TABLE 1 TO SUBPART OOO OF PART 62—GENERIC COMPLIANCE SCHEDULE AND INCREMENTS OF PROGRESS—Continued

Increment	Date if using tiers 1, 2, or 3	Date if using tier 4	Date if a legacy controlled landfill
Increment 5—Final compliance.	30 months after initial NMOC emission rate report or the first annual emission rate report showing NMOC emissions ≥34 megagrams per year.[1].	30 months after the most recent NMOC emission rate report showing NMOC emissions ≥34 megagrams per year.	30 months after the first NMOC emission rate report or the first annual emission rate report showing NMOC emissions ≥50 megagrams submitted under a previous regulation.[2]

[1] 50 megagrams per year NMOC for the closed landfill subcategory.
[2] Previous regulation refers to 40 CFR part 60, subpart WWW; 40 CFR part 62, subpart GGG; or a state plan implementing 40 CFR part 60, subpart Cc. Increments of progress that have already been completed under previous regulations do not have to be completed again under this subpart.

[FR Doc. 2021–10109 Filed 5–20–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL REGISTER

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Part V

The President

Memorandum of May 18, 2021—Restoring the Department of Justice's Access-to-Justice Function and Reinvigorating the White House Legal Aid Interagency Roundtable

Federal Register
Vol. 86, No. 97
Friday, May 21, 2021

Presidential Documents

Title 3—

The President

Memorandum of May 18, 2021

Restoring the Department of Justice's Access-to-Justice Function and Reinvigorating the White House Legal Aid Interagency Roundtable

Memorandum for the Heads of Executive Departments and Agencies

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to increase meaningful access to our legal system and an array of Federal programs, it is hereby ordered as follows:

Section 1. *Policy.* This Nation was founded on the ideal of equal justice under the law. Everyone in this country should be able to vindicate their rights and avail themselves of the protections that our laws afford on equal footing. Whether we realize this ideal hinges on the extent to which everyone in the United States has meaningful access to our legal system. Legal services are crucial to the fair and effective administration of our laws and public programs, and the stability of our society.

Recognizing the importance of access to justice and the power of legal aid, the Department of Justice (DOJ) in 2010 launched an access-to-justice initiative. In 2016, DOJ formally established the Office for Access to Justice. This office worked in partnership with other DOJ components to coordinate policy initiatives on topics including criminal indigent defense, enforcement of fines and fees, language barriers in access to the courts, and civil legal aid. The DOJ and the White House Domestic Policy Council also launched the Legal Aid Interagency Roundtable (LAIR) in 2012 to work with civil legal aid partners to advance Federal programs; create and disseminate tools to provide information about civil legal aid and Federal funding opportunities; and generate research to inform policy that improves access to justice.

The LAIR's successes prompted President Obama to issue the memorandum of September 24, 2015 (Establishment of the White House Legal Aid Interagency Roundtable), which formally established LAIR as a White House initiative. Using the White House's convening power, LAIR examined innovative and evidence-based solutions for access to justice, from medical-legal partnerships to improve health outcomes and decrease health costs to better procedures in court hearings for individuals representing themselves.

But there is much more for the Federal Government to do. According to a 2017 study by the Legal Services Corporation, low-income Americans receive inadequate or no professional legal assistance with regard to over 80 percent of the civil legal problems they face in a given year. All too often, unaddressed legal issues push people into poverty. At the same time, in the criminal legal system, those who cannot afford private counsel often receive a lower-quality defense because public defender caseloads are overburdened.

The coronavirus disease 2019 (COVID–19) pandemic has further exposed and exacerbated inequities in our justice system, as courts and legal service providers have been forced to curtail in-person operations, often without the resources or technology to offer remote-access or other safe alternatives. These access limitations have compounded the effects of other harms wrought by the pandemic. These problems have touched the lives of many persons in this country, particularly low-income people and people of color.

With these immense and urgent challenges comes the opportunity to strengthen access to justice in the 21st century. Through funding, interagency collaboration, and strategic partnerships, the Federal Government can drive development of new approaches and best practices that provide meaningful access to justice today, and into the future, consistent with our foundational ideal of equal justice under the law.

Sec. 2. *The Department of Justice's Access-to-Justice Function.* (a) My Administration is committed to promoting equal access to justice and addressing access limitations throughout the criminal and civil legal systems. The DOJ has a critical role to play in improving the justice delivery systems that serve people who cannot afford lawyers, and I am committed to reinvigorating that work.

(b) The Attorney General shall consider expanding DOJ's planning, development, and coordination of access-to-justice policy initiatives, including in the areas of criminal indigent defense, civil legal aid, and pro bono legal services. As soon as practicable, and no later than 120 days from the date of this memorandum, the Attorney General shall—in coordination with the Director of the Office of Management and Budget—submit a report to the President describing the Department's plan to expand its access-to-justice function, including the organizational placement of this function within the Department, expected staffing and budget, and, if necessary, the timeline for notifying the Congress of any reorganization.

Sec. 3. *Reinvigorating the White House Legal Aid Interagency Roundtable.* My Administration is committed to ensuring that all persons in this country enjoy the protections and benefits of our legal system. Reinvigorating LAIR as a White House initiative is a key step in this direction.

Accordingly, I direct as follows:

(a) The LAIR is hereby reconvened as a White House initiative in furtherance of the vision set forth in the memorandum of September 24, 2015, by which it was established and in light of today's most pressing challenges. The September 2015 memorandum is superseded to the extent that it is inconsistent with this memorandum.

(b) The LAIR shall work across executive departments, agencies, and offices to fulfill its mission, including to:

(i) improve coordination among Federal programs, so that programs are more efficient and produce better outcomes by including, where appropriate, legal services among the range of supportive services provided;

(ii) increase the availability of meaningful access to justice for individuals and families, regardless of wealth or status;

(iii) develop policy recommendations that improve access to justice in Federal, State, local, Tribal, and international jurisdictions;

(iv) assist the United States with implementation of Goal 16 of the United Nation's 2030 Agenda for Sustainable Development to promote peaceful and inclusive societies for sustainable development, provide access to justice for all, and build effective, accountable, and inclusive institutions at all levels; and

(v) advance relevant evidence-based research, data collection, and analysis of civil legal aid and indigent defense, and promulgate best practices.

(c) The Attorney General and the Counsel to the President, or their designees, shall serve as the Co-Chairs of LAIR, which shall also include a representative or designee from each of the following executive departments, agencies, and offices:

(i) the Department of State;

(ii) the Department of the Treasury;

(iii) the Department of Defense;

(iv) the Department of Justice;

(v) the Department of the Interior;

(vi) the Department of Agriculture;

(vii) the Department of Labor;

(viii) the Department of Health and Human Services;

(ix) the Department of Housing and Urban Development;

(x) the Department of Transportation;

(xi) the Department of Education;

(xii) the Department of Veterans Affairs;

(xiii) the Department of Homeland Security;

(xiv) the Environmental Protection Agency;

(xv) the Equal Employment Opportunity Commission;

(xvi) the Corporation for National and Community Service;

(xvii) the Office of Management and Budget;

(xviii) the United States Agency for International Development;

(xix) the Administrative Conference of the United States;

(xx) the National Science Foundation;

(xxi) the United States Digital Service;

(xxii) the Domestic Policy Council;

(xxiii) the Office of the Vice President; and

(xxiv) such other executive departments, agencies, and offices as the Co-Chairs may, from time to time, invite to participate.

(d) The Co-Chairs shall invite the participation of the Bureau of Consumer Financial Protection, the Federal Communications Commission, the Federal Trade Commission, the Legal Services Corporation, and the Social Security Administration, to the extent consistent with their respective statutory authorities and legal obligations.

(e) The LAIR shall report annually to the President on its progress in fulfilling its mission. The report shall include data from participating members on the deployment of Federal resources to foster this mission. The LAIR's 2021 report shall be due no later than 120 days from the date of this memorandum.

(f) In light of the mission and function set forth in section 3(b) of this memorandum, LAIR shall focus its first annual report on the impact of the COVID–19 pandemic on access to justice in both the criminal and civil legal systems. Moreover, the first convening of LAIR shall, at a minimum, address access-to-justice challenges the pandemic has raised and work towards identifying technological and other solutions that both meet these challenges and fortify the justice system's capacity to serve the public and be inclusive of all communities.

(g) The Attorney General shall designate an Executive Director of LAIR who shall, as directed by the Co-Chairs, convene regular meetings of LAIR and supervise its work. The DOJ staff designated to support the Department's access-to-justice function under section 2 of this memorandum shall serve as the staff of LAIR.

(h) The DOJ shall, to the extent permitted by law and subject to the availability of appropriations, provide administrative services, funds, facilities, staff, equipment, and other support services as may be necessary for LAIR to carry out its mission.

(i) The LAIR shall hold meetings at least three times per year. In the course of its work, LAIR should conduct outreach to Federal, State, local, Tribal, and international officials, technical advisors, and nongovernmental organizations, among others, as necessary to carry out its mission (including public defender organizations and offices and legal aid organizations and providers).

(j) The LAIR members are encouraged to provide support, including by detailing personnel, to LAIR. Members of LAIR shall serve without any additional compensation for their work.

Sec. 4. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

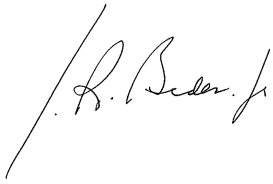
(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) Independent agencies are strongly encouraged to comply with the provisions in this memorandum.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Attorney General is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, May 18, 2021

[FR Doc. 2021–10973
Filed 5–20–21; 11:15 am]
Billing code 4410–19–P

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