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Presidential Documents

Title 3—

The President

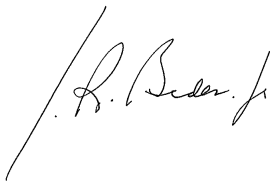
Presidential Determination No. 2021–11 of August 16, 2021

Unexpected Urgent Refugee and Migration Needs

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 2(c)(1) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)(1)) (MRAA), I hereby determine, pursuant to section 2(c)(1) of the MRAA, that it is important to the national interest to furnish assistance under the MRAA in an amount not to exceed $500 million from the United States Emergency Refugee and Migration Assistance Fund for the purpose of meeting unexpected urgent refugee and migration needs of refugees, victims of conflict, and other persons at risk as a result of the situation in Afghanistan, including applicants for Special Immigrant Visas. Such assistance may be provided on a bilateral or multilateral basis as appropriate, including through contributions to international organizations and through funding to other nongovernmental organizations, governments, and United States departments and agencies.

You are authorized and directed to submit this determination to the Congress, along with the accompanying Justification, and to publish this determination in the *Federal Register*



THE WHITE HOUSE,
Washington, August 17, 2021

[FR Doc. 2021–18062
Filed 8–19–21; 8:45 am]
Billing code 9111–23–P

Presidential Documents

Memorandum of August 17, 2021

Maximizing Assistance To Respond to COVID–19

Memorandum for the Secretary of Homeland Security [and] the Administrator of the Federal Emergency Management Agency

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5207 (the ''Stafford Act''), I hereby order as follows:

Section 1. *Policy*. Consistent with the nationwide emergency declaration of March 13, 2020, concerning the coronavirus disease 2019 (COVID–19) pandemic, it is the policy of my Administration to combat and respond to COVID–19 with the full capacity and capability of the Federal Government to protect and support our families, schools, and businesses, and to assist State, local, Tribal, and territorial governments to do the same, including through emergency and disaster assistance available from the Federal Emergency Management Agency (FEMA).

Sec. 2. *Assistance for Category B COVID–19 Emergency Protective Measures*. FEMA shall provide a 100 percent Federal cost share for all work eligible for assistance under Public Assistance Category B, pursuant to sections 403 (42 U.S.C. 5170b), 502 (42 U.S.C. 5192), and 503 (42 U.S.C. 5193) of the Stafford Act, including work described in section 3(a) of the Presidential Memorandum of January 21, 2021 (Memorandum to Extend Federal Support to Governors' Use of the National Guard to Respond to COVID–19 and to Increase Reimbursement and Other Assistance Provided to States), and in section 2 of that memorandum on the Governors' use of the National Guard, performed from January 20, 2020, through December 31, 2021.

Sec. 3. *General Provisions*. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

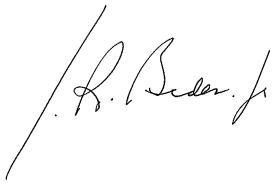
(i) the authority granted by law to an executive department or agency, or the head thereof; or

(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) 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.

(d) The Administrator of FEMA is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, August 17, 2021

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Rules and Regulations

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

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0455; Project Identifier 2018–SW–031–AD; Amendment 39–21699; AD 2021–17–16]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Leonardo S.p.a. Model AW189 helicopters. This AD was prompted by fatigue testing and analyses. This AD requires establishing a life limit for a certain part-numbered tail gearbox fitting. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 24, 2021.

ADDRESSES: For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view 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–2021–0455; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Leonardo S.p.a. Model AW189 helicopters. The NPRM published in the **Federal Register** on June 10, 2021 (86 FR 30822). In the NPRM, the FAA proposed to require determining the total hours time-in-service (TIS) and total number of landings of tail gearbox fitting part number (P/N) 4F5350A04152. If the total hours TIS and total number of landings cannot be determined, the NPRM would require removing the part from service. Also, the NPRM would establish a life limit for tail gearbox fitting P/N 4F5350A04152 and require removing the part from service according to the new life limit. The NPRM was prompted by EASA AD 2018–0087, dated April 18, 2018 (EASA AD 2018–0087), issued by 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.) Model AW189 helicopters. EASA advises of revisions resulting in Leonardo AW189 Maintenance Manual, Document 89–A–AMPI–00–P, Chapter IV, Airworthiness Limitations, Issue 13 (89–A–AMPI–00–P ALS Issue 13), which includes new and/or more restrictive airworthiness limitations and maintenance tasks since its original issuance. Failure to accomplish those airworthiness limitations and maintenance tasks could result in an unsafe condition. This condition, if not addressed, could result in failure of a part, which could result in loss of control of the helicopter.

Accordingly, EASA AD 2018–0087 requires accomplishing the actions specified in 89–A–AMPI–00–P ALS Issue 13 and revising the Aircraft Maintenance Program (AMP) with the actions specified in 89–A–AMPI–00–P ALS Issue 13.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

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 reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. This AD is adopted as proposed in the NPRM.

Related Service Information

The FAA reviewed AW189 Air Vehicle Maintenance Planning Information, 89–B–AMPI–00–P, Chapter 4, Issue 6, dated July 17, 2018 (89–B–AMPI–00–P ALS Issue 6). 89–B–AMPI–00–P ALS Issue 6 specifies various airworthiness limitations information including retirement lives, mandatory inspections, and certification maintenance requirements. 89–B–AMPI–00–P ALS Issue 6 is equivalent to 89–A–AMPI–00–P ALS Issue 13.

Differences Between This AD and the EASA AD

EASA AD 2018–0087 applies to Model AW189 helicopters, whereas this AD applies to that model helicopter with tail gearbox fitting P/N 4F5350A04152 installed instead. EASA AD 2018–0087 requires accomplishing the actions specified in 89–A–AMPI–00–P ALS Issue 13 and revising the AMP with the actions specified in 89–A–AMPI–00–P ALS Issue 13, whereas this AD requires establishing a life limit for tail gearbox fitting P/N

4F5350A04152 and removing that part from service accordingly instead.

Costs of Compliance

The FAA estimates that this AD affects 4 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Replacing a tail gearbox fitting takes about 48 work-hours and parts cost about $30,000 for an estimated cost of $34,080 per helicopter and $136,320 for the U.S. fleet, per replacement cycle.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–17–16 Leonardo S.p.a.: Amendment 39–21699; Docket No. FAA–2021–0455; Project Identifier 2018–SW–031–AD.

(a) Effective Date

This airworthiness directive (AD) is effective September 24, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model AW189 helicopters, certificated in any category, with tail gearbox fitting part number (P/N) 4F5350A04152 installed.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6520, Tail Rotor Gearbox.

(e) Unsafe Condition

This AD was prompted by fatigue testing and analyses. The FAA is issuing this AD to prevent parts from remaining in service beyond their fatigue life. The unsafe condition, if not addressed, could result in failure of a part, which could result in loss of control of the helicopter.

(f) Compliance

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

(g) Required Actions

Before further flight after the effective date of this AD:

(1) Determine the total hours time-in-service (TIS) and total number of landings of tail gearbox fitting P/N 4F5350A04152. For purposes of this AD, a landing is counted anytime a helicopter lifts off into the air and then lands again regardless of the duration of the landing and regardless of whether the engine is shutdown. If the total hours TIS and total number of landings cannot be determined, before further flight, remove the part from service.

(2) Remove any part from service that has reached or exceeded its life limit as follows. Thereafter, remove any part from service on or before reaching its life limit as follows. Tail gearbox fitting P/N 4F5350A04152: 14,600 total hours TIS or 57,300 total landings, whichever occurs first.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

(1) For more information about this AD, contact Kristi Bradley, Program Manager, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *kristin.bradley@faa.gov.*

(2) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0087, dated April 18, 2018. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2021–0455.

(j) Material Incorporated by Reference

None.

Issued on August 13, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–17841 Filed 8–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0672; Project Identifier MCAI–2021–00304–R; Amendment 39–21693; AD 2021–17–10]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Leonardo S.p.a. Model A109A, A109A II, A109C, A109E, A109K2, A109S, and AW109SP helicopters, having a certain rotor brake kit installed. This AD was

prompted by a report of un-commanded activation of the rotor brake system before take-off due to a jammed rotor brake control cable and subsequent partially open brake control valve. This AD requires repetitive inspections of the rotor brake control cable and replacement of the rotor brake control cable, if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective September 7, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 7, 2021.

The FAA must receive comments on this AD by October 4, 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 incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this 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–2021–0672.

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–2021–0672; 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 AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7323; email: *Darren.Gassetto@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0067, dated March 9, 2021 (EASA AD 2021–0067), to correct an unsafe condition on Leonardo S.p.a. (formerly Finmeccanica S.p.A., AgustaWestland S.p.A., Agusta S.p.A., Costruzioni Aeronautiche Giovanni Agusta) Model A109A, A109AII, A109C, A109E, A109K2, A109S, and AW109SP helicopters with a certain rotor brake kit installed.

EASA AD 2021–0067 was prompted by a report of un-commanded activation of the rotor brake system before take-off due to a jammed rotor brake control cable and subsequent partially open brake control valve. This resulted in hydraulic pressure delivered to the rotor brake, even with the rotor brake lever in the OFF position. To address this condition, EASA AD 2021–0067 requires repetitive inspections of the rotor brake control cable and replacement, if necessary. The FAA is issuing this AD to address un-commanded activation of the rotor brake system, which could lead to failure of the rotor brake system with consequent damage to surrounding critical equipment, resulting in loss of control of the helicopter.

Related IBR Material Under 1 CFR Part 51

EASA AD 2021–0067 specifies, within 50 hours and thereafter at intervals not to exceed 100 hours, repetitively inspecting the rotor brake control cable and replacing the control cable if the cylindrical nipple does not rotate freely, if the control cable jams when running inside the sheath, or if there is any damage or wear. EASA AD 2021–0067 also prohibits installing an affected rotor brake control cable on any helicopter unless it first passes the required inspection and requires reporting information to the manufacturer. 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

These products 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 of the unsafe condition described in its AD. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of these same type designs.

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2021–0067, described previously, as incorporated by reference, except for any differences identified in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use some 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 to use this process. As a result, EASA AD 2021–0067 is incorporated by reference in this FAA final rule. This AD would, therefore, require compliance with EASA AD 2021–0067 in its entirety, through that incorporation, except for any differences identified in the regulatory text of this 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 required by EASA AD 2021–0067 for compliance is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0672.

FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C.) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause'' finds that those procedures are

''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to the rulemaking.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because un-commanded activation of the rotor brake system due to a jammed rotor brake control cable and subsequent partially open brake control valve could lead to failure of the rotor brake system, with consequent loss of control of the helicopter. In addition, the compliance time for the required action is shorter than the time necessary for the public to comment and for publication of the final rule. Based on the average flight-hour utilization rates of these helicopters, the initial corrective actions must be completed within about two months. Therefore, notice and opportunity for prior public comment are impracticable and contrary to public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0672; Project Identifier MCAI–2021–00304–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the AD, 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 AD because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this 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 AD 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 AD, 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 AD. Submissions containing CBI should be sent to Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7323; email: *Darren.Gassetto@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.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 153 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR INSPECTION

Labor cost	Parts cost	Cost per helicopter	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85 per inspection cycle	$13,005 per inspection cycle.

The FAA estimates the following costs to do any on-condition replacement that would be required based on the results of the inspections. The FAA has no way of determining the number of helicopters that might need this replacement:

ESTIMATED COSTS OF ON-CONDITION ACTIONS *

Action	Labor cost	Parts cost	Cost per helicopter
Replacement	3 work-hours × $85 per hour = $255	$615	$870
Reporting	1 work-hour × $85 per hour = $85	0	85

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number. The OMB control number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Send comments regarding this burden estimate or any other aspect of this

collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Pkwy., Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this AD would not have federalism implications under Executive Order 13132. This 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 regulation:

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–17–10 Leonardo S.p.a: Amendment 39–21693; Docket No. FAA–2021–0672; Project Identifier MCAI–2021–00304–R.

(a) Effective Date

This airworthiness directive (AD) becomes effective September 7, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model A109A, A109A II, A109C, A109E, A109K2, A109S, and AW109SP helicopters, certificated in any category, with a rotor brake kit identified in European Union Aviation Safety Agency (EASA) AD 2021–0067, dated March 9, 2021 (EASA AD 2021–0067).

(d) Subject

Joint Aircraft System Component (JASC) Codes 6321, Main Rotor Brake.

(e) Unsafe Condition

This AD was prompted by a report of un-commanded activation of the rotor brake system before take-off due to a jammed rotor brake control cable and subsequent partially open brake control valve. The FAA is issuing this AD to address un-commanded activation of the rotor brake system, which could lead to failure of the rotor brake system, with consequent damage to surrounding critical equipment, and loss of control of the helicopter.

(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 2021–0067.

(h) Exceptions to EASA AD 2021–0067

(1) Where EASA AD 2021–0067 requires compliance from its effective date, this AD requires using the effective date of this AD.

(2) This AD does not require the ''Remarks'' section of EASA AD 2021–0067.

(3) Where EASA AD 2021–0067 requires compliance in terms of flight hours (FH), this AD requires using hours time-in-service.

(4) Where paragraph (2) of EASA AD 2021–0067 requires replacing the affected part if any defect is found, for purposes of this AD, a defect also includes compromised integrity of the control cable strands (*e.g.,* fraying or a kink).

(5) Where the service information required by EASA AD 2021–0067 specifies replacing the affected part if any damage is found, for purposes of this AD, damage includes clicks or breakings when the rotor brake lever is moved forward and backward.

(i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the actions of this AD can be performed, provided the rotor brake system is de-activated or rendered inoperable.

(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) 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

For more information about this AD, contact Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7323; email: *Darren.Gassetto@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0067, dated March 9, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0067, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0672.

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

Issued on August 12, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–17974 Filed 8–18–21; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0686; Project Identifier MCAI–2021–00687–R; Amendment 39–21701; AD 2021–17–18]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Leonardo S.p.a. Model A109C, A109K2, A109E, A109S, and AW109SP helicopters. This AD was prompted by a report of a crack on the tail rotor (TR) mast. This AD requires an inspection of certain TR sleeve assemblies for discrepancies, an inspection of certain TR shaft assemblies for discrepancies, a repetitive measurement of the position of the bushing of the TR sleeve assembly in relation to the pitch change slider assembly, and corrective actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective September 7, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 7, 2021.

The FAA must receive comments on this AD by October 4, 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 incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this 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–2021–0686.

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–2021–0686; 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 AD, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7330; email: *andrea.jimenez@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0144, dated June 17, 2021 (EASA AD 2021–0144) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Leonardo S.p.a. Model A109C, A109K2, A109E, A109S, and AW109SP helicopters.

This AD was prompted by a report of a crack on the TR mast. The FAA is issuing this AD to address cracking on the TR mast, which could lead to failure of the TR mast, with consequent loss of control of the helicopter. See the MCAI for additional background information.

Related IBR Material Under 1 CFR Part 51

EASA AD 2021–0144 specifies procedures for an inspection of certain TR sleeve assemblies for discrepancies; an inspection of certain TR shaft assemblies for abnormal wear condition, corrosion, fretting, crack, and damage; a repetitive measurement of the position of the bushing of the TR sleeve assembly in relation to the pitch change slider assembly for any dimensional change; a repetitive inspection of a certain inspection area of the TR gearbox for discrepancies; and corrective actions. 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

These products have been approved by the aviation authority of another country, and are 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 issuing this AD after evaluating all pertinent information and determining that the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Requirements of This AD

This AD requires accomplishing the actions specified in EASA AD 2021–0144, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD and except as discussed under ''Differences Between this AD and the MCAI.''

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 to use this process. As a result, EASA AD 2021–0144 is incorporated by reference in this FAA final rule. This AD, therefore, requires compliance with EASA AD 2021–0144 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with

this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2021–0144 that is required for compliance with EASA AD 2021–0144 is available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0686.

Differences Between This AD and the MCAI

Paragraph (1) of EASA AD 2021–0144 specifies the inspection must be done within 25 flight hours or 3 months, whichever occurs first. However, this AD requires the inspection to be done within 25 hours time-in-service after the effective date of this AD.

Paragraphs (5) and (9) of EASA AD 2021–0144 require a repetitive inspection and corrective actions. The FAA is considering requiring these actions. However, the planned compliance time would allow enough time to provide notice and opportunity for prior public comment on the merits of those actions.

Interim Action

The FAA considers this AD interim action. The inspection reports that are required by this AD will enable the manufacturer to obtain better insight into the nature, cause, and extent of the cracking, and eventually to develop final action to address the unsafe condition. Once final action has been identified, the FAA might consider further rulemaking. Additionally, the FAA is considering further rulemaking to require the repetitive inspections and corrective actions specified in paragraphs (5) and (9) of EASA AD 2021–0144.

FAA's Justification and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because cracking on the TR mast could lead to failure of the TR mast, with consequent loss of control of the helicopter. Additionally, based on the average flight-hour utilization rates of these helicopters, the initial inspections must be completed within about 2 months. Accordingly, the compliance time for the required action is shorter than the time necessary for the public to comment and for publication of the final rule. Therefore, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B). In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0686; Project Identifier MCAI–2021–00687–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the AD, 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 AD because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this 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 AD 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 AD, 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 AD. Submissions containing CBI should be sent to Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7330; email: *andrea.jimenez@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.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 133 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections/Measurements.	Up to 6 work-hours × $85 per hour = $510 per inspection/measurement cycle.	$0	Up to $510 per inspection/measurement cycle.	Up to $67,830 per inspection/measurement cycle.

The FAA estimates the following costs to do any necessary on-condition actions (replacements, repairs, and reporting) that would be required based on the results of any required actions. The FAA has no way of determining the

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS *

Action	Labor cost	Parts cost	Cost per product
Replacements	19 work-hours × $85 per hour = $1,615	$88,760	$90,375
Reporting	1 work-hour × $85 per hour = $85	0	85

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

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

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this regulation:

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–17–18 Leonardo S.p.a.: Amendment 39–21701; Docket No. FAA–2021–0686; Project Identifier MCAI–2021–00687–R.

(a) Effective Date

This airworthiness directive (AD) becomes effective September 7, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model A109C, A109K2, A109E, A109S, and AW109SP helicopters, certificated in any category, all serial numbers.

(d) Subject

Joint Aircraft System Component (JASC) Code 6400, Tail Rotor System.

(e) Unsafe Condition

This AD was prompted by a report of a crack on the tail rotor (TR) mast. The FAA is issuing this AD to address cracking on the TR mast, which could lead to failure of the TR mast, with consequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0144, dated June 17, 2021 (EASA AD 2021–0144).

(h) Exceptions to EASA AD 2021–0144

(1) Where EASA AD 2021–0144 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0144 does not apply to this AD.

(3) Where EASA AD 2021–0144 refers to flight hours (FH), this AD requires using hours time-in-service.

(4) Where paragraph (1) of EASA AD 2021–0144 specifies a compliance time of 25 FH or 3 months, whichever occurs first, this AD requires compliance within 25 hours time-in-service after the effective date of this AD.

(5) Where Note 1 of EASA AD 2021–0144 specifies a tolerance of 30 FH, this AD does not allow a tolerance.

(6) Where paragraph (6) of EASA AD 2021–0144 states the term ''discrepancies,'' for the purposes of this AD discrepancies include dents, corrosion, elongation, scratches, wear, excessive wear (web visible), fretting, or stepping.

(7) Where paragraph (7) of EASA AD 2021–0144 states the term ''discrepancies,'' for the purposes of this AD discrepancies include abnormal wear condition, corrosion, fretting, crack, or damage (including dents, elongation, scratches, or stepping).

(8) Paragraphs (5) and (9) of EASA AD 2021–0144 do not apply to this AD.

(9) Where EASA AD 2021–0144 defines ''serviceable part,'' and that definition specifies instructions that are ''approved under Leonardo Design Organization Approval (DOA) or by EASA,'' for this AD, the repair must be accomplished using a method approved by the Manager, General Aviation and Rotorcraft Section, International Validation Branch, FAA; or EASA; or Leonardo S.p.a.'s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(10) Where Note 2, and paragraph (7) of EASA AD 2021–0144 specify instructions that are ''approved under Leonardo DOA or by EASA,'' for this AD, the repair must be accomplished using a method approved by the Manager, General Aviation and Rotorcraft Section, International Validation Branch, FAA; or EASA; or Leonardo S.p.a.'s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(11) Where the service information referenced in EASA AD 2021–0144 specifies to contact the manufacturer for corrective action, this AD requires the repair to be done in accordance with a method approved by the Manager, General Aviation and Rotorcraft Section, International Validation Branch, FAA; or EASA; or Leonardo S.p.a.'s EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(12) Where the service information referenced in EASA AD 2021–0144 specifies to discard a certain part, this AD requires removing that part from service.

(i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the actions of this AD can be performed, provided no passengers are onboard.

(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) 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

For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; phone: (516) 228–7330; email: *andrea.jimenez@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0144, dated June 17, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0144, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu;* internet: *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0686.

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

Issued on August 13, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–17976 Filed 8–18–21; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0683; Project Identifier MCAI–2020–00614–R; Amendment 39–21696; AD 2021–17–13]

RIN 2120–AA64

Airworthiness Directives; PZL Swidnik S.A. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain PZL Swidnik S.A. Model PZL W–3A helicopters. This AD was prompted by a report of a damaged wheel braking system pneumatic line fitting installed on the left-hand (LH) main landing gear (MLG) leg. This AD requires modifying the LH MLG leg. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective September 7, 2021.

The FAA must receive comments on this AD by October 4, 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 final rule, contact WSK ''PZL-Świdnik'' S.A., Al. Lotników Polskich 1, 21–045 Świdnik, Poland; telephone (+48) 81722 5716; fax (+48) 81722 5625; email: *PL-CustomerSupport.AW@leonardocompany.com;* or at *https://www.pzlswidnik.pl/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–2021–0683; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the European Aviation Safety Agency (now 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: Fred Guerin, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 2200 S 216th St, Des Moines, WA 98198; telephone (202) 267–7457; email *fred.guerin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2018–0274, dated December 13, 2018 (EASA AD 2018–0274), to correct an unsafe condition for Wytwórnia Sprzętu Komunikacyjnego (WSK) ''PZL-

Świdnik'' Spółka Akcyjna (S.A.) Model PZL W–3A helicopters. EASA advises that damage was reported of the wheel braking system pneumatic line fitting installed on the LH MLG leg. Subsequent investigation determined that the wheel braking system pneumatic line fitting damage was caused by an impact of a load hoisted by the rescue hoist. This condition, if not addressed, could result in loss of MLG wheel braking capability, and subsequent loss of control of the helicopter during a roll-on landing.

Accordingly, EASA AD 2018–00274 requires, for helicopters equipped with a rescue hoist, modification of the LH MLG leg by installing shield assembly part number (P/N) 37.96.204.00.00. EASA AD 2018–0274 also specifies that for helicopters not equipped with a rescue hoist, installation of a rescue hoist is permitted provided that the helicopter is also modified by installing the shield assembly.

FAA's Determination

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 EASA AD 2018–0274. 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 the same type design.

Related Service Information

The FAA reviewed WYTWÓRNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Świdnik'' Spółka Akcyjna Mandaroty Bulletin No. BO–37–18–301, dated December 10, 2018. This service information specifies procedures for installing shield assembly P/N 37.96.204.00.00 on the LH MLG leg on Model PZL W–3A helicopters with a rescue hoist installed.

AD Requirements

For helicopters with a rescue hoist installed, this AD requires modifying the LH MLG leg by installing shield assembly P/N 37.96.204.00.00. Additionally, this AD prohibits installing a rescue hoist unless shield assembly P/N 37.96.204.00.00 is also installed.

Difference Between This AD and the EASA AD

Whereas EASA AD 2018–0274 applies to all PZL W–3A helicopters, this AD applies to PZL W–3A helicopters with a rescue hoist installed.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for ''good cause,'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

There are no helicopters with this type certificate on the U.S. Registry. Accordingly, notice and opportunity for prior public comment are unnecessary, pursuant to 5 U.S.C. 553(b)(3)(B). In addition, for the foregoing reason, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0683; Project Identifier MCAI–2020–00614–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, 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 final rule 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 final rule.

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 AD 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 AD, 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 AD. Submissions containing CBI should be sent to Fred Guerin, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 2200 S 216th St., Des Moines, WA 98198; telephone (202) 267–7457; email *fred.guerin@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.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

There are no costs of compliance with this AD because there are no helicopters with this type certificate on the U.S. Registry.

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on

the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed, I certify that this AD:

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–17–13 PZL Swidnik S.A.: Amendment 39–21696; Docket No. FAA–2021–0683; Project Identifier MCAI–2020–00614–R.

(a) Effective Date

This airworthiness directive (AD) is effective September 7, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to PZL Swidnik S.A. Model PZL W–3A helicopters, certificated in any category, with a rescue hoist installed.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 3201, Landing Gear/Wheel Fairing.

(e) Unsafe Condition

This AD was prompted by a report of a damaged wheel braking system pneumatic line fitting installed on the left-hand (LH) main landing gear (MLG) leg. The FAA is issuing this AD to prevent damage to MLG pneumatic wheel braking system. The unsafe condition, if not addressed, could result in loss of MLG wheel braking capability, and subsequent loss of control of the helicopter during a roll-on landing.

(f) Compliance

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

(g) Required Actions

(1) Within 30 days after the effective date of this AD, modify the LH MLG leg by installing shield assembly part number (P/N) 37.96.204.00.00.

Note 1 to paragraph (g)(1): A sketch of the installation of shield P/N 37.96.204.01.00 and clamps P/N MS21920–35, which together constitute shield assembly P/N 37.96.204.00.00, is available in Attachment 1, of WYTWÓRNIA SPRZĘTU KOMUNIKACYJNEGO ''PZL-Świdnik'' Spółka Akcyjna Mandatory Bulletin No. BO–37–18–301, dated December 10, 2018.

(2) As of the effective date of this AD, do not install a rescue hoist unless the action required by paragraph (g)(1) of this AD has been accomplished concurrently with the rescue hoist installation or within 30 days after the effective date of this AD, whichever occurs later.

(h) Alternative Methods of Compliance (AMOCs)

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

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

(i) Related Information

(1) For more information about this AD, contact Fred Guerin, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 2200 S 216th St., Des Moines, WA 98198; telephone (202) 267–7457; email *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) For service information identified in this AD, contact WSK ''PZL-Świdnik'' S.A., Al. Lotników Polskich 1, 21–045 Świdnik, Poland; telephone (+48) 81722 5716; fax (+48) 81722 5625; email: *PL-CustomerSupport.AW@leonardocompany.com;* or at *https://www.pzlswidnik.pl/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 Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2018–0274, dated December 13, 2018. You may view the EASA AD at *https://www.regulations.gov* in Docket No. FAA–2021–0683.

Issued on August 12, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–17838 Filed 8–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0374; Project Identifier MCAI–2020–00543–R; Amendment 39–21663; AD 2021–16–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model SA330J, AS332C, AS332L, AS332L1, AS332L2, and EC225LP helicopters. This 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 AD requires inspecting the locking safety mechanism of the LH side stairway door handle and depending on the results, corrective action. This AD also requires modifying that locking safety mechanism as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 24, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of September 24, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–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 final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: 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:

Background

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 an 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).

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Model SA330J, AS332C, AS332L, AS332L1, AS332L2, and EC225LP helicopters. The NPRM published in the **Federal Register** on May 21, 2021 (86 FR 27535). The NPRM was prompted by a report of an 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 NPRM proposed to require inspecting the locking safety mechanism of the LH side stairway door handle and depending on the results, corrective action. The NPRM also proposed to require modifying the locking safety mechanism.

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. See EASA AD 2020–0087 for additional background information.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed.

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.

Differences Between This AD and the EASA AD

Where EASA AD 2020–0087 refers to the effective date of EASA AD 2014–0241–E or its effective date, this AD requires using the effective date of this AD. Where EASA AD 2020–0087 refers to Group 1 and 2 helicopters, this AD does 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 AD requires 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 AD requires 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 AD does 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 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.

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 AD.

Inspecting the operation of the locking safety mechanism on the LH side stairway door handle takes 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 takes 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 takes about 8 work-hours and parts 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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–16–02 Airbus Helicopters: Amendment 39–21663; Docket No. FAA–2021–0374; Project Identifier MCAI–2020–00543–R.

(a) Effective Date

This airworthiness directive (AD) is effective September 24, 2021.

(b) Affected 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) 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

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.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020–0087, dated April 15, 2020.

(ii) [Reserved]

(3) 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.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0374.

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

Issued on July 20, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–17840 Filed 8–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0889; Airspace Docket No. 20–ASO–25]

RIN 2120–AA66

Amendment of Class D Airspace, and Class E Airspace; Smyrna, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: A final rule was published in the **Federal Register** on February 23, 2021, amending Class D and E airspace at Smyrna Airport, Smyrna, TN. This action corrects the legal description of the Class D airspace by amending the southeastern bearing from the airport to 139°.

DATES: Effective 0901 UTC, December 2, 2021. The Director of the Federal Register approves this incorporation by reference action under Title 1CFR, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

FOR FURTHER INFORMATION, CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (86 FR 10812, February 23, 2021) for Doc. No. FAA–2020–0889, amending Class D airspace Class E airspace at Smyrna Airport, Smyrna, TN.

Subsequent to publication, the FAA found the southeastern extension of the Class D airspace was listed as the 142° bearing from the airport. The bearing should be the 139° bearing from the airport. This action corrects this error.

Class D and Class E airspace designations are published in Paragraph 5000, and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Correction to Final Rule

This action amends 14 CFR part 71 by correcting the descriptor of Class D airspace for Smyrna Airport, Smyrna, TN as follows.

The first sentence of the legal description for the Class D airspace at Smyrna Airport is amended to read ''That airspace extending upward from the surface to but not including 2,500 feet MSL within a 3.9-mile radius of the Smyrna Airport, and within 1.2 miles each side of the 139° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles southeast of the airport, and within 1.2-miles each side of the 184° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles south of the airport.''

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. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASO TN D Smyrna, TN [Amended]

Smyrna Airport, TN

(Lat. 36°00′32″ N, long. 86°31′12″ W)

That airspace extending upward from the surface to but not including 2,500 feet MSL within a 3.9-mile radius of the Smyrna Airport, and within 1.2 miles each side of the 139° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles southeast of the airport, and within 1.2-miles each side of the 184° bearing from the airport, extending from the 3.9-mile radius to 5.5-miles south of the airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Issued in College Park, Georgia, on August 17, 2021.

Matthew N. Cathcart,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2021–17878 Filed 8–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31384; Amdt. No. 3969]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at

certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 20, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 20, 2021.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC, 20590–0001.
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the typed of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on August 6, 2021.

Wade E.K. Terrell,

Aviation Safety, Flight Standards Service, Manager (A), Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CRF part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 9 September 2021

Middletown, DE, KEVY, RNAV (GPS) Y RWY 35, Orig
Middletown, DE, KEVY, RNAV (GPS) Z RWY 35, Amdt 2
Ellendale, ND, 4E7, RNAV (GPS) RWY 31, Orig-A
West Chester, PA, KOQN, RNAV (GPS) Y RWY 9, Amdt 2
West Chester, PA, KOQN, RNAV (GPS) Z RWY 9, Orig

Effective 7 October 2021

Headland, AL, 0J6, RNAV (GPS) RWY 9, Amdt 1B
Headland, AL, 0J6, RNAV (GPS) RWY 27, Amdt 1B
Little Rock, AR, KLIT, RNAV (GPS) RWY 4R, Amdt 1F
Warren, AR, 3M9, RNAV (GPS) RWY 3, Orig-C
Warren, AR, 3M9, RNAV (GPS) RWY 21, Orig-D
Warren, AR, 3M9, VOR/DME–A, Amdt 5, CANCELLED
Denver, CO, KAPA, ILS OR LOC RWY 35R, Amdt 11A
Denver, CO, KAPA, RNAV (GPS) RWY 35R, Amdt 1A
Lakeland, FL, KLAL, ILS OR LOC RWY 10, ILS RWY 10 (SA CAT I), ILS RWY 10 (CAT II), ILS RWY 10 (CAT III), Amdt 2
Lakeland, FL, KLAL, RNAV (GPS) RWY 10, Amdt 3
Lakeland, FL, KLAL, RNAV (GPS) RWY 28, Amdt 3
Forest City, IA, KFXY, VOR–A, Amdt 3C
Weiser, ID, Weiser Muni, Takeoff Minimums and Obstacle DP, Amdt 1
De Kalb, IL, KDKB, ILS OR LOC RWY 2, Orig-E
Indianapolis, IN, KIND, ILS OR LOC RWY 14, Amdt 7A
Burlington, KS, KUKL, RNAV (GPS) RWY 18, Amdt 1
Burlington, KS, KUKL, RNAV (GPS) RWY 36, Amdt 1
New Orleans, LA, KMSY, LOC RWY 20, Amdt 3A
New Orleans, LA, KMSY, RNAV (GPS) Y RWY 20, Amdt 3A
New Orleans, LA, KMSY, RNAV (RNP) Z RWY 20, Amdt 1A
Mosby, MO, KGPH, RNAV (GPS) RWY 36, Amdt 2B
Poplar Bluff, MO, KPOF, RNAV (GPS) RWY 18, Orig-C
Poplar Bluff, MO, KPOF, RNAV (GPS) RWY 36, Orig-B
Gulfport, MS, KGPT, ILS Z OR LOC Z RWY 32, Amdt 5A
Gulfport, MS, KGPT, RNAV (GPS) RWY 18, Amdt 3
Gulfport, MS, KGPT, RNAV (GPS) RWY 32, Amdt 2A
Gulfport, MS, KGPT, RNAV (GPS) RWY 36, Amdt 2B
Gulfport, MS, Gulfport-Biloxi Intl, Takeoff Minimums and Obstacle DP, Amdt 6A
Gulfport, MS, KGPT, VOR Y RWY 32, Amdt 21D
Gulfport, MS, KGPT, VOR Z RWY 32, Amdt 5A
Hamilton, MT, Hamilton/Ravalli County, HAMEY TWO Graphic DP
Hamilton, MT, KHRF, RNAV (GPS) RWY 17, Orig
Hamilton, MT, KHRF, RNAV (GPS)-A, Orig
Hamilton, MT, Hamilton/Ravalli County, Takeoff Minimums and Obstacle DP, Amdt 1
Collegeville, PA, N10, RNAV (GPS)-B, Orig-A, CANCELLED
Collegeville, PA, N10, RNAV (GPS)-C, Orig-A, CANCELLED
Collegeville, PA, Perkiomen Valley, Takeoff Minimums and Obstacle DP, Orig-A, CANCELLED
Arlington, TX, KGKY, VOR/DME RWY 34, Amdt 2A, CANCELLED
Crewe, VA, W81, RNAV (GPS)-A, Orig-A
Beckley, WV, KBKW, RNAV (GPS) RWY 28, Amdt 1D

Rescinded: On August 5, 2021 (86 FR 42708), the FAA published an Amendment in Docket No. 31382 Amdt No. 3967, to Part 97 of the Federal Aviation Regulations under section 97.27. The following entry for Conway, SC, effective October 7, 2021, is hereby rescinded in its entirety:

Conway, SC, KHYW, NDB RWY 4, Orig-D

[FR Doc. 2021–17854 Filed 8–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31385; Amdt. No. 3970]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective August 20, 2021. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 20, 2021.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;
2. The FAA Air Traffic Organization Service Area in which the affected airport is located;
3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,
4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73169. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further,

airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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 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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on August 6, 2021.

Wade E.K. Terrell,

Aviation Safety, Flight Standards Service, Manager (A), Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, CFR part 97, (is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

Effective Upon Publication

Airac date	State	City	Airport	FDC No.	FDC date	Subject
9–Sep–21	OH	Ashland	Ashland County	1/1139	7/26/21	RNAV (GPS) RWY 19, Orig-E.
9–Sep–21	MI	Flint	Bishop Intl	1/2083	7/21/21	RNAV (GPS) RWY 18, Amdt 1C.
9–Sep–21	UT	St George	St George Rgnl	1/2139	7/23/21	LDA RWY 19, Orig-D.
9–Sep–21	UT	St George	St George Rgnl	1/2140	7/23/21	RNAV (GPS) RWY 1, Orig-C.
9–Sep–21	UT	St George	St George Rgnl	1/2141	7/23/21	RNAV (GPS) RWY 19, Orig-D.
9–Sep–21	LA	Sulphur	Southland Fld	1/2681	7/21/21	RNAV (GPS) RWY 15, Orig.
9–Sep–21	LA	Sulphur	Southland Fld	1/2682	7/21/21	RNAV (GPS) RWY 33, Orig.
9–Sep–21	LA	Sulphur	Southland Fld	1/2685	7/21/21	LOC RWY 15, Amdt 2.
9–Sep–21	AR	Stuttgart	Stuttgart Muni Carl Humphrey Fld.	1/2686	7/21/21	ILS OR LOC RWY 36, Orig-C.
9–Sep–21	AR	Stuttgart	Stuttgart Muni Carl Humphrey Fld.	1/2687	7/21/21	RNAV (GPS) RWY 9, Orig-C.
9–Sep–21	AR	Stuttgart	Stuttgart Muni Carl Humphrey Fld.	1/2690	7/21/21	RNAV (GPS) RWY 18, Amdt 1B.
9–Sep–21	AR	Stuttgart	Stuttgart Muni Carl Humphrey Fld.	1/2691	7/21/21	RNAV (GPS) RWY 27, Amdt 1C.
9–Sep–21	AR	Stuttgart	Stuttgart Muni Carl Humphrey Fld.	1/2692	7/21/21	RNAV (GPS) RWY 36, Amdt 1C.
9–Sep–21	TX	Midland	Midland Airpark	1/3208	7/26/21	RNAV (GPS) RWY 25, Orig-A.
9–Sep–21	TX	Midland	Midland Airpark	1/3209	7/26/21	VOR–A, Amdt 2A.
9–Sep–21	TX	Midland	Midland Airpark	1/3210	7/26/21	VOR/DME RWY 25, Amdt 3C.
9–Sep–21	OK	Chickasha	Chickasha Muni	1/4061	7/23/21	Takeoff Minimums and Obstacle DP, Orig.

Airac date	State	City	Airport	FDC No.	FDC date	Subject
9–Sep–21	NE	Mc Cook	Mc Cook Ben Nelson Rgnl	1/4344	7/26/21	ILS OR LOC/DME RWY 12, Orig-A.
9–Sep–21	NE	Mc Cook	Mc Cook Ben Nelson Rgnl	1/4345	7/26/21	VOR RWY 30, Amdt 11C.
9–Sep–21	NE	Mc Cook	Mc Cook Ben Nelson Rgnl	1/4346	7/26/21	RNAV (GPS) RWY 22, Orig-D.
9–Sep–21	NE	Mc Cook	Mc Cook Ben Nelson Rgnl	1/4347	7/26/21	RNAV (GPS) RWY 30, Orig-C.
9–Sep–21	NE	Mc Cook	Mc Cook Ben Nelson Rgnl	1/4348	7/26/21	RNAV (GPS) RWY 12, Amdt 1A.
9–Sep–21	NC	Rocky Mount	Rocky Mount-Wilson Rgnl	1/4837	7/22/21	VOR/DME RWY 22, Amdt 3A.
9–Sep–21	CA	Borrego Springs	Borrego Valley	1/5276	7/28/21	RNAV (GPS) RWY 26, Orig.
9–Sep–21	AR	Newport	Newport Rgnl	1/5283	7/26/21	RNAV (GPS) RWY 18, Orig-A.
9–Sep–21	AR	Newport	Newport Rgnl	1/5285	7/26/21	RNAV (GPS) RWY 36, Orig-A.
9–Sep–21	OK	Ardmore	Ardmore Muni	1/5354	7/29/21	ILS OR LOC RWY 31, Amdt 5C.
9–Sep–21	OK	Ardmore	Ardmore Muni	1/5375	7/29/21	RNAV (GPS) RWY 31, Amdt 1D.
9–Sep–21	MA	Orange	Orange Muni	1/5755	7/28/21	RNAV (GPS) RWY 32, Orig-A.
9–Sep–21	NC	Walnut Cove	Meadow Brook Fld	1/5860	7/26/21	VOR/DME OR GPS RWY 34, Orig.
9–Sep–21	ID	Blackfoot	Mccarley Fld	1/7608	7/23/21	RNAV (GPS)-A, Orig-B.
9–Sep–21	ID	Blackfoot	Mccarley Fld	1/7609	7/23/21	RNAV (GPS)-B, Orig-B.
9–Sep–21	ID	Blackfoot	Mccarley Fld	1/7610	7/23/21	VOR/DME–C, Orig-B.
9–Sep–21	AZ	Marana	Marana Rgnl	1/7890	7/28/21	RNAV (GPS) RWY 12, Amdt 1B.
9–Sep–21	CA	Los Angeles	Los Angeles Intl	1/9393	8/2/21	RNAV (RNP) Z RWY 25R, Orig.
9–Sep–21	CA	Los Angeles	Los Angeles Intl	1/9394	8/2/21	RNAV (RNP) Z RWY 24L, Amdt 2A.
9–Sep–21	CA	Los Angeles	Los Angeles Intl	1/9395	8/2/21	RNAV (RNP) Z RWY 25L, Amdt 2C.

[FR Doc. 2021–17855 Filed 8–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

20 CFR Part 30

RIN 1240–AA08

Claims for Compensation Under the Energy Employees Occupational Illness Compensation Program Act

AGENCY: Office of Workers' Compensation Programs, Department of Labor.

ACTION: Final rule; correction.

SUMMARY: On February 8, 2019, the Department of Labor (Department) published in the **Federal Register** a final rule that revised its regulations governing its responsibilities under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA). However, the final rule as published inadvertently omitted amendatory instructions to retain two subordinate paragraphs. This document corrects the error.

DATES: This correction is effective August 20, 2021, and is applicable beginning April 9, 2019.

FOR FURTHER INFORMATION CONTACT: Rachel D. Pond, Director, Division of Energy Employees Occupational Illness Compensation, Office of Workers' Compensation Programs, U.S. Department of Labor, Room C–3321, 200 Constitution Avenue NW, Washington, DC 20210. Telephone: 202–693–0081 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department's February 8, 2019, final rule that revised its regulations governing its responsibilities under the Energy Employees Occupational Illness Compensation Program Act of 2000, as amended (EEOICPA), 42 U.S.C. 7384 *et seq.* However, the final rule as published inadvertently omitted amendatory instructions to retain the two subordinate paragraphs to 20 CFR 30.210(a)(1), *i.e.,* 20 CFR 30.210(a)(1)(i) and (ii). This document provides the omitted amendatory instructions to ensure that § 30.210(a)(1)(i) and (ii) are contained in the final rule as intended by the Department, and notifies the public of how corrected § 30.210(a)(1) now reads.

In the February 8, 2019, final rule, amendatory instruction 17 amended § 30.210 by revising paragraph (a)(1); however, amendatory instruction 17 did not specify that only the introductory text of paragraph (a)(1) required revision, and that the two subordinate paragraphs to § 30.210(a)(1), *i.e.,* 20 CFR 30.210(a)(1)(i) and (ii), were to remain in the final rule. Amendatory instruction 17 should have revised only the introductory text of paragraph (a)(1).

This correcting amendment is in keeping with the Department's clearly expressed intent in the preamble of the final rule to update a cross-reference in § 30.210(a)(1), and not to make any other change in § 30.210(a)(1). The omission of § 30.210(a)(1)(i) and (ii) in the final rule had no substantive effect because those subordinate paragraphs are explicit requirements in section 7384l(9)(A) of EEOICPA, and therefore cannot be ignored in the adjudication of claims under EEOICPA.

List of Subjects in 20 CFR Part 30

Administrative practice and procedure, Cancer, Claims, Kidney diseases, Lung diseases, Miners, Radioactive materials, Underground mining, Uranium, Workers' compensation.

Therefore, the Department amends 20 CFR part 30 by making the following correcting amendment:

PART 30—CLAIMS FOR COMPENSATION UNDER THE ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PROGRAM ACT OF 2000, AS AMENDED

■ 1. The authority citation for part 30 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3716 and 3717; 42 U.S.C. 7384d, 7384t, 7384u and 7385s–10; Executive Order 13179, 65 FR 77487, 3 CFR, 2000 Comp., p. 321; Secretary of Labor's Order No. 10–2009, 74 FR 58834.

■ 2. Amend § 30.210 by revising paragraph (a)(1) to read as follows:

§ 30.210 What are the criteria for eligibility for benefits relating to radiogenic cancer?

(a) To establish eligibility for benefits for radiogenic cancer under Part B of EEOICPA, an employee or his or her survivor must show that:

(1) The employee has been diagnosed with one of the forms of cancer specified in § 30.5(gg); and

(i) Is a member of the Special Exposure Cohort (as described in § 30.214(a) of this subpart) who, as a civilian DOE employee or civilian DOE contractor employee, contracted the specified cancer after beginning employment at a DOE facility; or

(ii) Is a member of the Special Exposure Cohort (as described in § 30.214(a) of this subpart) who, as a civilian atomic weapons employee, contracted the specified cancer after beginning employment at an atomic weapons employer facility (as defined in § 30.5(e)); or

* * * * *

Signed at Washington, DC, this 13th day of August, 2021.

Christopher J. Godfrey,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2021–17870 Filed 8–19–21; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0597]

RIN 1625–AA00

Safety Zone; Lake of the Ozarks, Mile Marker 7, Lake of the Ozarks, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on all navigable waters in the Lake of the Ozarks extending 420 feet in all directions around a fireworks barge at mile marker 7, located approximately 500 feet west of Shady Gators. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by a fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River or a designated representative.

DATES: This rule is effective from 9 p.m. on August 27, 2021 until 9:30 p.m. on August 28, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0597 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Stephanie Moore, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2560, email *Stephanie.R.Moore@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this safety zone by August 27, 2021 and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because immediate action is needed to respond to the potential safety hazards associated with the fireworks display on August 27, 2021 and August 28, 2021.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with a fireworks display on August 27, 2021 and August 28, 2021 will be a safety concern for anyone on the Lake of the Ozarks at Mile Marker 7. This rule resulted from a marine event notification stating that there will be a fireworks display to celebrate summertime on the Lake of the Ozarks. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone before, during, and after the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone that will be enforced on August 27, 2021 from 9 p.m. through 9:30 p.m. and August 28, 2021 from 9 p.m. through 9:30 p.m. The safety zones will be located on all navigable waters extending 420 feet in all directions around the fireworks barge at mile marker 7, located approximately 500 feet west of Shady Gators. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters before, during, and after a fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River. The COTP or a designated representative will inform the public of the enforcement dates and times for this safety zone, as well as any emergent safety concerns that may delay the enforcement of the zone.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the temporary safety zone. This action involves a fireworks display that impacts on all navigable waters extending 420 feet in all directions around the fireworks barge at mile marker 7, located approximately 500 feet west of Shady Gators on August 27, 2021 at 9 p.m. through 9:30 p.m. and August 28, 2021 at 9 p.m. through 9:30 p.m. Moreover, the Coast Guard will

publish a Local Notice to Mariners and mariners may seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting thirty minutes that will prohibit entry around a fireworks barge on the Lake of the Ozarks at mile marker 7, located approximately 500 feet west of Shady Gators. It is categorically excluded from further review under paragraph L60, 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. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T08–0597 to read as follows:

§ 165.T08–0707 Safety Zone; Lake of the Ozarks, Mile Marker 7, Lake of the Ozakrs, MO.

(a) *Location.* The following area is a safety zone: All navigable waters of the Lake of the Ozarks at mile marker 7, extending 420 feet in all directions around the fireworks barge located approximately 500 feet west of Shady Gators.

(b) *Period of enforcement.* This section will be enforced on August 27, 2021 from 9 p.m. until 9:30 p.m. and August 28, 2021 from 9 p.m. until 9:30 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, persons and vessels are prohibited from entering the safety zone unless authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of USCG Sector Upper Mississippi River.

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

(3) If permission is granted, all persons and vessels shall comply with the instructions of the COTP or

designated representative while navigating in the regulated area.

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

Dated: August 13, 2021.

R.M. Scott,

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

[FR Doc. 2021–17728 Filed 8–19–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0451]

RIN 1625–AA00

Safety Zone; Ohio River, Newburgh, IN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Ohio River extending the entire width of the river, from mile marker (MM) 777.3 to MM 778.3. This action is necessary to provide for the safety of life on these navigable waters near Newburgh, Indiana during the City of Newburgh fireworks display on September 4, 2021. This regulation prohibits persons and vessels from being in the safety zone unless authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective from 9:30 p.m. through 10 p.m. on September 4, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2021–0451 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST3 Christopher Matthews, U.S. Coast Guard; telephone 502–779–5334, email *Christopher.S.Matthews@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Ohio Valley
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 June 17, 2021, the Historic Newburgh, Inc notified the Coast Guard that it will be conducting a fireworks display from 9:30 p.m. though 10 p.m. on September 4, 2021. The fireworks are to be launched from the shore of the Ohio River at approximately mile marker (MM) 777.3 to MM 778.3. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the fireworks to be used in this display would be a safety concern for anyone on a one-mile stretch of the Ohio River. In response, on July, 2, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; Ohio River, Newburgh, IN'' docket number USCG–2021–0451 (86 FR 35242). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended August 2, 2021, we received 1 comment.

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 and contrary to the public interest because we must establish the safety zone by September 4, 2021 to protect the public from the potential hazards associated with the fireworks event on that date.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the fireworks to be used in this September 4, 2021 display will be a safety concern for anyone within the area. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received one comment on our NPRM published July 2, 2021. The comment was from a citizen concerned about environmental impact of this firework display. The environmental concerns raised by the commenter appear to be in regards to the potential dangers to the environment from the fireworks, and not the environmental impact of this safety zone. The Coast Guard is not sponsoring or conducting the fireworks; we are only establishing a safety zone around the display to protect persons and property from hazards associated with the display. During the development of this temporary final rule, the Coast Guard underwent an environmental review process and determined this safety zone fit a categorical exclusion under the National Environmental Policy Act as explained in greater detail in paragraph F of this document. The Coast Guard duly considered the environmental impacts in our decision to authorize the safety zone as part of the decision making process. No changes have been made to the final rule regulatory text from what was proposed in the NPRM.

This rule establishes a safety zone from 9:30 p.m. through 10 p.m. on September 4, 2021. The safety zone will cover all navigable waters, extending the entire width of the Ohio River from MM 777.3 to MM 778.3. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9:30 p.m. to 10 p.m. fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP 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 size, location, and duration of the temporary safety zone. This safety zone restricts transit on a one-mile stretch of the Ohio River for thirty minutes on one day. Morever, the Coast Guard would issue Broadcast Notice to Mariners (BNMs), Local Notices to Mariners (LNMs), and Marine Safety Information Bulletins (MSIBs) about this safety zone so that waterway users may plan accordingly for this short restriction on transit, and the rule would allow vessels to request permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no 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 lasting 30 minutes that will prohibit entry within a one-mile stretch of the Ohio River for one day. 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. 00170.1., Revision No. 01.2

■ 2. Add § 165.T08–0451 to read as follows:

§ 165.T08–0451 Safety Zone; Ohio River, Newburgh, IN.

(a) *Location.* The following area is a safety zone: All navigable waters of the Ohio River between MM 777.3 to MM 778.3 in Newburgh, IN.

(b) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by VHF–FM radio channel 16 or phone at 1–800–253–7465. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(c) *Enforcement period.* This section will be enforced from 9:30 p.m. through 10 p.m. on September 4, 2021.

Dated: August 12, 2021

A.M. Beach,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2021–17892 Filed 8–19–21; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 10 and 11

[PS Docket Nos. 15–94 and 15–91; FCC 21–77; FR ID 37637]

Emergency Alert System, Wireless Emergency Alerts; National Defense Authorization Act for Fiscal Year 2021

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communication Commission (the FCC or Commission), implements section 9201 of the National Defense Authorization Act for Fiscal Year 2021, improving the way the public receives emergency alerts from the nation's Emergency Alert System (EAS) and Wireless Emergency Alerts System (WEA) on their mobile phones, televisions, and radios. The Commission adopts rules to ensure that more people receive relevant emergency alerts, to enable EAS and WEA participants to report false alerts when they occur, and to improve the way states plan for emergency alerts.

DATES: Effective September 20, 2021.

FOR FURTHER INFORMATION CONTACT: Christopher Fedeli, Attorney Advisor, Public Safety and Homeland Security Bureau at 202–418–1514 or *Christopher.Fedeli@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (*Order*) and Further Notice of Proposed Rulemaking, in PS Docket Nos. 15–94 and 15–91, FCC 21–77, adopted and released on June 17, 2021. The full text of this document is available at *https://www.fcc.gov/document/fcc-further-strengthens-emergency-alerting-0.*

Synopsis

In the Report and Order (*Order*), the Commission takes measures to enhance the efficacy of the EAS and WEA. The nation's EAS and WEA ensure that the public is quickly informed about emergency alerts issued by federal, state, local, Tribal, and territorial governments and delivered over the radio, television, and mobile wireless devices. Specifically, and in consultation with the Federal Emergency Management Agency (FEMA), the Commission implements Section 9201 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388, § 9201 (NDAA21), which requires the Commission to complete a rulemaking and adopt rules within 180 days to (a) ensure mobile devices cannot opt out of receiving WEA alerts from the FEMA Administrator; (b) establish a state EAS plan checklist for State Emergency Communications Committees (SECCs) and amend the requirements for SECCs, to ensure they meet, review, and update their EAS plans annually; (c) enable reporting by the FEMA Administrator and State, Tribal, or local governments of false EAS and WEA alerts; and (d) provide for repeating EAS alerts issued by the President, the FEMA Administrator, and any other entity determined appropriate by the Commission, in consultation with the FEMA Administrator. The Commission believes the rules it adopts today will improve the capabilities and efficacy of EAS and WEA as systems for distributing vital alert information to all Americans, and will do so in a cost-effective manner.

The Commission implements section 9201(a) of the NDAA21 by adopting rules to ensure that mobile devices cannot opt-out of receiving WEA alerts from the FEMA Administrator. The Commission implements section 9201(b) of the NDAA21 by adopting rules to (i) encourage chief executives of states and territories to form SECCs if none exist in their states, or if the state has an SECC, to review its composition and governance criteria; (ii) include as a required element in the State EAS Plan, a certification by the SECC Chairperson or Vice-Chairperson that the SECC met (in person, via teleconference, or via other methods of conducting virtual meetings) at least once in the twelve months prior to submitting the annual updated plan to review and update their State EAS Plan—and incorporate such certification into the Alert Reporting System (ARS); (iii) require that the Public Safety and Homeland Security Bureau (Bureau) to approve or reject State EAS Plans submitted for approval within 60 days of receipt—for those instances in which the Bureau finds defects in a submitted plan requiring correction by the SECC, that State EAS Plan will be considered to be temporarily withdrawn, restarting the 60-day review and approval period anew upon resubmission of the corrected plan in ARS; (iv) require the Bureau to list the approval dates of State EAS Plans submitted on ARS on the Commission's website, and in the event a final decision is made to deny a plan, directly notify the chief executive of the State to which the plan applies of that determination and the reasons for such denial within 30 days of such decision; and (v) adopt an EAS Plan Content Checklist composed of the plan content requirements set forth in § 11.21 of the Commission's rules, 47 CFR 11.21, and direct the Bureau to post the checklist on the Commission's website and incorporate it as an appendix in the ARS user manual.

The Commission implements section 9201(c) of the NDAA21 by adopting rules to enable the Administrator of FEMA and state, local, Tribal, and territorial governments to report false EAS and WEA alerts when they occur. The Commission implements section 9201(d) of the NDAA21 by adopting a rule specifying how alert originators can repeat their alert transmissions. The rules the Commission adopts are intended to facilitate the further development of a robust and redundant system for distributing vital alert information to all Americans.

Accessible Formats

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM) in PS Docket Nos. 15–94 and 15–91, 86 FR 16565 (Mar. 30, 2021). The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were filed addressing the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Final Rules

In the *Order,* the Commission adopts rules to improve the way the public receives emergency alerts on their mobile phones, televisions, and radios via WEA and EAS, in response to the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021. WEA and EAS ensure that the public is quickly informed about emergency alerts issued by federal,

state, local, Tribal, and territorial governments and delivered over the radio, television, and mobile wireless devices. These announcements keep the public safe and informed and have increased in importance in the wake of the emergencies and disasters experienced by Americans in the past few years. Congress has determined that WEA and EAS rule changes are necessary to increase oversight over the distribution of state and local EAS alerts within states, increase the likelihood that the public will receive full alerts pertaining to national security, and increase false alert reporting capabilities to help ameliorate confusion or other harmful effects resulting from false alerts. Consistent with the congressional directives in the NDAA21, the Commission amends its WEA and EAS rules to ensure that more people receive relevant emergency alerts, to enable EAS and WEA participants to report false alerts when they occur, and to improve the way states plan for emergency alerts.

Specifically, the Commission amends its rules to (i) replace WEA's existing Presidential Alert class with a National Alert class that would ensure that WEA-enabled mobile devices could not opt-out of receiving WEA alerts issued by the President (or the President's authorized designee) or by the FEMA Administrator; (ii) require participating Commercial Mobile Service (CMS) providers that use WEA header displays that read ''Presidential Alert'' to change those alert headers to read ''National Alert'' or to remove such headers altogether; (iii) encourage chief executives of states to form SECCs if none exist in their states, or if they do, to review their composition and governance, update their State EAS plans annually, and certify that they have met (in person, via teleconference, or via other methods of conducting virtual meetings) at least once in the twelve months prior to submitting the annual updated plan to review and update the plan; (iv) incorporate certain processing actions concerning SECCs' and the FCC's administration of State EAS Plans; (v) enable false EAS and WEA alert reporting by the FEMA Administrator as well as state, local, Tribal, and territorial governments; and (vi) provide for repeating EAS alerts issued by the President, the Administrator of FEMA and any other entity determined appropriate under the circumstances by the Commission, in consultation with the Administrator of FEMA.

The rules adopted in the *Order* are intended to increase participation by state, local, Tribal, and territorial governments in the administration of State EAS Plans, enhance administration of EAS alerting, hasten corrective action when any false alerts are issued, and better enable alert originators to repeat alerts. They will benefit the public by strengthening national, state, local, Tribal, and territorial alerting activities, minimizing confusion and disruption caused by false alerts, increasing the chances for the public to receive critical alert messages, and will facilitate the further development of a robust and redundant system for distributing vital alert information to all Americans.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

There were no comments filed that specifically addressed the proposed rules and policies presented in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments.

The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of small entities that may be affected by the rules, adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

Small Businesses, Small Organizations, and Small Governmental Jurisdictions. The Commission's actions may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 30.7 million businesses.

Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Internal Revenue Service (IRS) uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

Radio Stations. This Economic Census category comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' The SBA has established a small business size standard for this category as firms having $41.5 million or less in annual receipts. Economic Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 firms operated with annual receipts of less than $25 million per year, 17 with annual receipts

between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Therefore, based on the SBA's size standard the majority of such entities are small entities.

In addition to the U.S. Census Bureau's data, based on Commission data the Commission estimates that there are 4,560 licensed AM radio stations, 6,704 commercial FM radio stations and 8,339 FM translator and booster stations. The Commission has also determined that there are 4,196 noncommercial educational (NCE) FM radio stations. The Commission however does not compile and does not otherwise have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities under the SBA size standard.

The Commission also notes that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. The Commission's estimate therefore likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, to be determined a ''small business,'' an entity may not be dominant in its field of operation. The Commission further notes that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules may apply does not exclude any radio station from the definition of a small business on these bases, thus the Commission's estimate of small businesses may therefore be over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

FM Translator Stations and Low-Power FM Stations. FM translators and Low Power FM Stations are classified in the category of Radio Stations and are assigned the same NAICS Code as licensees of radio stations. This U.S. industry, Radio Stations, comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has established a small business size standard which consists of all radio stations whose annual receipts are $38.5 million dollars or less. U.S. Census Bureau data for 2012 indicate that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year, 17 with annual receipts between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Therefore, based on the SBA's size standard the Commission concludes that the majority of FM Translator Stations and Low Power FM Stations are small.

The Commission notes again, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Because the Commission does not include or aggregate revenues from affiliated companies in determining whether an entity meets the applicable revenue threshold, its estimate of the number of small radio broadcast stations affected is likely overstated. In addition, as noted above, one element of the definition of ''small business'' is that an entity would not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio broadcast station is dominant in its field of operation. Accordingly, the Commission's estimate of small radio stations potentially affected by the rule revisions discussed in the NPRM includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

Television Broadcasting. This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of $25,000,000 or less, and 25 had annual receipts between $25,000,000 and $49,999,999. Based on this data the Commission therefore estimates that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

The Commission has estimated the number of licensed commercial television stations to be 1,368. According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on November 16, 2017, 1,258 stations (or about 91 percent) had revenues of $38.5 million or less, and therefore these licensees qualified as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 390. Notwithstanding, the Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 2,246 low power television stations, including Class A stations (LPTV), and 3,543 TV translator stations. Given the nature of these services, the Commission will presume that all of these entities qualify as small entities under the above SBA small business size standard.

The Commission notes, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore, likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

Cable and Other Subscription Programming. The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of

programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA size standard for this industry establishes as small, any company in this category which receives annual receipts of $41.5 million or less. According to 2012 U.S. Census Bureau data, 367 firms operated for the entire year. Of that number, 319 operated with annual receipts of less than $25 million a year and 48 firms operated with annual receipts of $25 million or more. Based on this data, the Commission estimates that the majority of firms operating in this industry are small.

Cable System Operators (Rate Regulation Standard). The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are 4,600 active cable systems in the United States. Of this total, all but five cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, the Commission estimates that most cable systems are small entities.

Cable System Operators (Telecom Act Standard). The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' As of 2019, there were approximately 48,646,056 basic cable video subscribers in the United States. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that all but nine incumbent cable operators are small entities under this size standard. The Commission notes that it neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

Satellite Telecommunications. This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there was a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

All Other Telecommunications. The ''All Other Telecommunications'' category is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, U.S. Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by the Commission's action can be considered small.

Broadband Radio Service and Educational Broadband Service. Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and ''wireless cable,'' transmit video programming to subscribers and provide two-way high speed data operations using the microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)).

BRS—In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, the Commission estimates that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 86 incumbent BRS licensees that are considered small entities (18 incumbent BRS licensees do not meet the small business size standard). After adding the number of small business auction licensees to the number of incumbent licensees not already counted, there are currently approximately 133 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding

three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

EBS—Educational Broadband Service has been included within the broad economic census category and SBA size standard for Wired Telecommunications Carriers since 2007. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA's small business size standard for this category is all such firms having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small. In addition to Census data, the Commission's Universal Licensing System indicates that as of October 2014, there are 2,206 active EBS licenses. The Commission estimates that of these 2,206 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.

Direct Broadcast Satellite (''DBS'') Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS is included in the category of ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. The SBA size standard considers a wireline business is small if it has fewer than 1,500 employees. U.S. Census Bureau data for 2012 indicates that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on that data, the Commission concludes that the majority of wireline firms are small under the applicable SBA standard. Currently, however, only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, the Commission must conclude that internally developed FCC data are persuasive that, in general, DBS service is provided only by large firms.

Wireless Telecommunications Carriers (except Satellite). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees, and 12 firms had employment of 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

AWS Services (1710–1755 MHz and 2110–2155 MHz bands (AWS–1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS–2); 2155–2175 MHz band (AWS–3)). For the AWS–1 bands, the Commission has defined a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. For AWS–2 and AWS–3, although the Commission does not know for certain which entities are likely to apply for these frequencies, it notes that the AWS–1 bands are comparable to those used for cellular service and personal communications service. The Commission has not yet adopted size standards for the AWS–2 or AWS–3 bands but proposes to treat both AWS–2 and AWS–3 similarly to broadband PCS service and AWS–1 service due to the comparable capital requirements and other factors, such as issues involved in relocating incumbents and developing markets, technologies, and services.

Narrowband Personal Communications Services. Two auctions of narrowband personal communications services (PCS) licenses have been conducted. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the Narrowband PCS Second Report and Order. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards.

Broadband Personal Communications Service. The broadband personal communications service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a ''small business'' for C- and F-Block licenses as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For F-Block licenses, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These standards defining ''small entity'', in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved

small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C-Block auctions. A total of 93 bidders that claimed small business status won approximately 40 percent of the 1,479 licenses in the first auction for the D-, E-, and F-Blocks. On April 15, 1999, the Commission completed the reauction of 347 C-, D-, E-, and F-Block licenses in Auction No. 22. Of the 57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

On January 26, 2001, the Commission completed the auction of 422 C- and F-Block Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in that auction, 29 claimed small business status. Subsequent events concerning Auction No. 35, including judicial and agency determinations, resulted in a total of 163 C- and F-Block licenses being available for grant. On February 15, 2005, the Commission completed an auction of 242 C-, D-, E-, and F-Block licenses in Auction No. 58. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156 licenses. On May 21, 2007, the Commission completed an auction of 33 licenses in the A-, C-, and F-Blocks in Auction No. 71. Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses. On August 20, 2008, the Commission completed the auction of 20 C-, D-, E-, and F-Block Broadband PCS licenses in Auction No. 78. Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.

Wireless Communications Services. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. In the Commission's auction for geographic area licenses in the WCS there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity.

Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a small business size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees, and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry are small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The *Order* imposes additional reporting, recordkeeping and/or other compliance obligations on certain small, as well as other, entities that process WEA alerts and manufacture mobile devices that receive such alerts, and could impose additional reporting, recordkeeping and/or other compliance obligations on small, as well as other entities that administer State EAS Plans, process and transmit EAS alerts, and manufacture equipment designed to process EAS alerts. While the Commission is not in a position to determine whether small entities will have to hire professionals to comply with its decisions and cannot quantify the cost of compliance for small entities, as discussed in the *Order,* the approaches it has taken to implement the requirements of NDAA21 have minimal or de minimis cost implications for impacted entities.

In the *Order,* the Commission adds a national alert category to WEA that WEA-enabled mobile device users cannot opt-out of receiving. The national alert category changes the name of the current Presidential Alerts category to National Alerts and includes alerts from both the President and the FEMA Administrator. Participating CMS providers that use WEA header displays and settings menus that currently display ''Presidential Alert'' will have to change the display to read ''National Alert'' or discontinue their voluntary use of WEA header displays.

The *Order* also requires that each updated State EAS Plan submitted annually to the Commission for approval include a certification by the SECC Chairperson or Vice-Chairperson that the SECC has met (in person, via teleconference, or via other methods of conducting virtual meetings) at least once in the twelve months prior to submitting the annual updated plan to review and update their State EAS Plan. The certification requirement will be included in the rules governing State EAS Plans and will be incorporated into the Alert Reporting System (ARS). The certification requirement can be met via an on-screen ARS click-box, rather than requiring SECCs to complete extra paperwork to generate a certification document to attach in ARS.

To address the NDAA21's requirements for reporting by government entities on false EAS or WAS alerts, the *Order* revises the Commission's WEA and EAS rules to provide for voluntary reporting by the FEMA Administrator, State, local, Tribal, or territorial governments using an email reporting system. The rules provide guidance on the types of false alerts that are suitable to report—discouraging reporting alerts where the incorrect information is de-minimis. The Commission also provides guidance on the types of information in a report that it would find helpful, such as the time and date of the reported alert event, the geographic location where the alerts were received, the message the alert conveyed, how they became aware of the alert, over what medium the alert was transmitted (*e.g.,* broadcast or cable), whether it was an EAS or WEA event, and who originated the alert (if known).

To satisfy the alert repetition requirements in the NDAA21 the *Order* modifies the EAS rules to add a new section, 11.44 ''Alert Repetition,'' specifying that an alert originator may ''repeat'' an alert by releasing the alert anew—*i.e.,* re-originating the alert—at least one minute subsequent to the time the message was initially released by the originator, as reflected in the repeat alert's JJJHHMM header code to meet its alert repetition obligation.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources

available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for such small entities.''

The actions taken by the Commission in the *Order* were considered to be the least costly and minimally burdensome for small and other entities impacted by the rules. As such, the Commission does not expect the adopted requirements to have a significant economic impact on small entities. Below the Commission discusses actions it took in the *Order* to minimize any significant economic impact on small entities and some alternatives that were considered.

The rules adopted creating a WEA National Alert class which adds the FEMA Administrator as an authorized originator of these alerts in addition to the President of the United States, does not create any costs for small entities. Renaming the existing Presidential Alert class to National Alerts and allowing for use of the existing WEA handling code and other infrastructure already in place for Presidential Alert was the least costly way possible to implement the NDAA21 requirement to ensure that subscribers may not opt out of receiving FEMA Administrator alerts. This change requires few, if any, technical changes to be made to participating CMS provider networks or the mobile devices of their subscribers. With respect to the amendment requiring participating CMS provider handset display updates to discontinue the display of ''Presidential Alert,'' the Commission provides participating CMS providers flexibility in the approach they use to ensure compliance, allowing the requirement to be satisfied by any approach that ensures that ''Presidential Alert'' is not displayed on a user's mobile device, either by changing the displayed header or not displaying the header at all. The Commission notes that no commenting party disputed its estimate that these costs would be minimal to the industry. The Commission also reduces the burden on participating CMS providers by exempting from the requirement any network infrastructure that is technically incapable of meeting this requirement, such as legacy devices or networks that cannot be updated to support this functionality.

With respect to the amendments involving SECCs and State EAS Plan provisions, the Commission declined to adopt recommendations for SECC membership and/or a model governance structure for SECCs. There are SECCs currently operating in all 50 states and all, but 2 territories and each state and territory is different with unique needs that no single framework may fit. Regarding the requirement for certification by the SECC Chairperson or Vice-Chairperson that the SECC has met (in person, via teleconference, or via other methods of conducting virtual meetings) at least once in the twelve months prior to submitting the annual updated plan to review and update their State EAS Plan, the Commission does not believe the costs to the SECC members will be more than de minimis. The Commission allows for virtual meetings, which lessens the cost and burden of meeting in person. Further, as mentioned in the previous section, the Commission allows the meeting certification to be effectuated by clicking a button on the ARS online menu, which is significantly less burdensome for small entities than having to make some other showing, such as a paper filing.

The amendments the Commission adopted to create a system for false alert reporting by government entities minimize any impact of compliance for small entities and others by virtue of the reporting system being a voluntary reporting process. For government entities that choose to report false alerts, they can do so by simply sending the relevant information to the Commission via email to the FCC Operations Center. As mentioned above, the Commission declined to require a list of elements that must be reported, which could make the process unduly burdensome and deter government entities from filing false alert reports. The Commission also declined to adopt a definition of what constitutes a false alert which could be too limited and burdensome for reporting government entities. Instead, the Commission offers guidance on the type of information about false alerts that would be meaningful to the Commission, and note that the voluntary reporting process adopted in the *Order* does not alter the meaning of false alerts that has been applied in other parts of the Commission rules, including § 11.45(a) and (b).

With respect to the process for enabling Alert Originators to repeat EAS alerts for national security, the requirement to repeat EAS messages can be addressed under the Commission's existing rules. The Commission therefore kept the current EAS rules governing alert (re)transmission intact and added a new § 11.44 that clarifies how alert originators can repeat their alert transmissions. The Commission's decision to clarify how alert originators can repeat (or re-originate) EAS alerts does not impose any additional costs, as such repetition has been a function available to alert originators from the inception of the EAS.

Finally, the Commission notes two additional actions it took that minimizes the significant economic impact of the *Order* on small entities. The Commission declined to adopt a new national security-related originator code or event code in light of the record, which suggests that adding new codes will introduce costs to EAS Participants that are difficult to justify given the complexity and costs associated with their adoption. The Commission also declined to adopt a requirement for implementation of automated repetition of alerts by EAS Participants' EAS devices. To do so would result in substantial burdens that are unnecessary, and the potential disruption and costs associated with implementing automated repeating in EAS devices is likely to be significant and could yield unintended consequences detrimental to EAS operations.

Paperwork Reduction Act Analysis

This document contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, the Commission notes that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), it previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Congressional Review Act

The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs, that this rule is non-major under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Accordingly, *it is ordered,* pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r),

303(v), 307, 309, 335, 403, 624(g), 706, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), and 606, as well as by sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act, 47 U.S.C. 1202(a), (b), (c), (f), 1203, 1204 and 1206, Section 202 of the Twenty-First Century Communications and Video Accessibility Act of 2010, as amended, 47 U.S.C. 613, and the National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388, section 9201, 47 U.S.C. 1201, 1206, that this Report and Order and Further Notice of Proposed Rulemaking in PS Docket Nos. 15–94 and 15–91 *is hereby adopted.*

It is further ordered that the rule amendments adopted herein *will become effective* September 20, 2021. The new or revised portions of §§ of 10.11(b), 10.520(d)(2), 11.21, 11.21(a), 11.45(c), and 11.21(a)(8) contain new or modified information collection requirements that require OMB review under the PRA. The Commission directs the Public Safety and Homeland Security Bureau (Bureau) to announce the compliance dates for these rules after OMB has reviewed and approved those information collections in a document published in the **Federal Register**, delegates authority to the Bureau to cause the July 31, 2022 deadline in § 10.11(b) to be revised accordingly as necessary if more time is needed to secure OMB's review, and delegates authority to the Bureau to revise §§ 10.11(c), 10.520(d)(3), 11.21(g), and 11.45(d) once OMB review has been obtained. The compliance dates that the Bureau announces for the new or revised portions of § 11.21(a) at Appendix A shall supply sufficient time to comply with the § 11.21 rule revisions adopted in Emergency Alert System, Report and Order, PS Docket Nos. 15–94 and 15–91, (83 FR 37750, Aug. 2, 2018).

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 10

Communications common carriers, Radio.

47 CFR Part 11

Radio, Television.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 10 and 11 as follows:

PART 10—WIRELESS EMERGENCY ALERTS

■ 1. The authority citation for part 10 is revised to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (o), 201, 303(r), 403, and 606, 1202(a), (b), (c), (f), 1203, 1204, and 1206.]

■ 2. Section 10.11 is amended by designating the current text as paragraph (a) and by adding paragraphs (b) and (c) to read as follows:

§ 10.11 WEA implementation timeline.

* * * * *

(b) If a Participating CMS Provider's network infrastructure would generate and display WEA headers with the text ''Presidential Alert'' to subscribers upon receipt of a National Alert, or include the text ''Presidential Alert'' in a mobile device's settings menus, then by July 31, 2022, that Participating CMS Provider's network infrastructure shall either generate and display WEA headers and menus with the text ''National Alert,'' or no longer display those headers and menu text to the subscriber. Network infrastructure that is technically incapable of meeting this requirement, such as situations in which legacy devices or networks cannot be updated to support header display changes, are exempt from this requirement.

(c) Compliance date(s)—paragraph (b) of this section contains an information-collection and recordkeeping requirement. Compliance with paragraph (b) will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing compliance date(s) with this paragraph and revising this paragraph accordingly.

■ 3. Section 10.320 is amended by revising paragraph (e)(3) to read as follows:

§ 10.320 Provider alert gateway requirements.

* * * * *

(e) * * *

(3) *Prioritization.* The CMS provider gateway must process an Alert Message on a first in-first out basis except for National Alerts, which must be processed before all non-National Alerts.

* * * * *

■ 4. Section 10.400 is amended by revising paragraph (a) to read as follows:

§ 10.400 Classification.

* * * * *

(a) *National Alert.* A National Alert is an alert issued by the President of the United States or the President's authorized designee, or by the Administrator of FEMA. National Alerts may be either nationwide or regional in distribution.

* * * * *

■ 5. Section 10.410 is revised to read as follows:

§ 10.410 Prioritization.

A Participating CMS Provider is required to transmit National Alerts upon receipt. National Alerts preempt all other Alert Messages. A Participating CMS Provider is required to transmit Imminent Threat Alerts, AMBER Alerts and Public Safety Messages on a first in-first out (FIFO) basis.

■ 6. Section 10.420 is revised to read as follows:

§ 10.420 Message elements.

A WEA Alert Message processed by a Participating CMS Provider shall include five mandatory CAP elements—Event Type; Area Affected; Recommended Action; Expiration Time (with time zone); and Sending Agency. This requirement does not apply to National Alerts.

■ 7. Section 10.500 is amended by revising paragraph (f) to read as follows:

§ 10.500 General requirements.

* * * * *

(f) Presentation of alert content to the device, consistent with subscriber opt-out selections. National Alerts must always be presented.

* * * * *

■ 8. Section 10.520 is amended by redesignating paragraph (d) as paragraph (d)(1) and by adding paragraphs (d)(2) and (3) to read as follows:

§ 10.520 Common audio attention signal.

* * * * *

(d)(1) * * *

(2) If the Administrator of the Federal Emergency Management Agency (FEMA) or a State, local, Tribal, or territorial government entity becomes aware of transmission of a WEA false alert to the public, they are encouraged to send an email to the Commission at the FCC Ops Center at *FCCOPS@fcc.gov,* informing the Commission of the event

and of any details that they may have concerning the event.

(3) Compliance date(s)—paragraph (d)(2) of this section contains an information-collection and recordkeeping requirement. Compliance with paragraph (d)(2) will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing compliance date(s) with this paragraph and revising this paragraph accordingly.

* * * * *

PART 11—EMERGENCY ALERT SYSTEM (EAS)

■ 9. The authority citation for part 11 is revised to read as follows:

Authority: 47 U.S.C. 151, 154 (i) and (o), 303(r), 544(g), 606, 1201, 1206].

■ 10. Section 11.21 is amended by revising the introductory text and paragraph (a) introductory text and adding paragraphs (a)(8) and (g) to read as follows:

§ 11.21 State and Local Area plans and FCC Mapbook.

EAS plans contain guidelines which must be followed by EAS Participants' personnel, emergency officials, and National Weather Service (NWS) personnel to activate the EAS. The plans include the EAS header codes and messages that will be transmitted by key EAS sources (NP, LP, SP and SR). State and local plans contain unique methods of EAS message distribution such as the use of the Radio Broadcast Data System (RBDS). The plans also include information on actions taken by EAS Participants, in coordination with state and local governments, to ensure timely access to EAS alert content by non-English speaking populations. The plans must be reviewed and approved by the Chief, Public Safety and Homeland Security Bureau (Bureau), prior to implementation to ensure that they are consistent with national plans, FCC regulations, and EAS operation. The plans are administered by State Emergency Communications Committees (SECC). The Commission encourages the chief executive of each State to establish an SECC if their State does not have an SECC, and if the State has an SECC, to review the composition and governance of the SECC. The Bureau will review and approve plans, including annual updated plans, within 60 days of receipt, provided that no defects are found requiring the plan to be returned to the SECC for correction and resubmission. If a plan submitted for approval is found defective, the SECC will be notified of the required corrections, and the corrected plan may be resubmitted for approval, thus starting the 60-day review and approval period anew. The approval dates of State EAS Plans will be listed on the Commission's website.

(a) State EAS Plans contain guidelines that must be followed by EAS Participants' personnel, emergency officials, and National Weather Service (NWS) personnel to activate the EAS. The Plans include information on actions taken by EAS Participants, in coordination with state and local governments, to ensure timely access to EAS alert content by non-English speaking populations. State EAS Plans must be updated on an annual basis. State EAS Plans must include the following elements:

* * * * *

(8) Certification by the SECC Chairperson or Vice-Chairperson that the SECC met (in person, via teleconference, or via other methods of conducting virtual meetings) at least once in the twelve months prior to submitting the annual updated plan to review and update the plan.

* * * * *

(g) Compliance date(s)—the introductory text and paragraphs (a) introductory text and (a)(8) of this section contain information-collection and recordkeeping requirements adopted in the Report and Order and Further Notice of Proposed Rulemaking, *Amendment of the Commission's Rules Regarding the Emergency Alert System; Wireless Emergency Alerts,* PS Docket Nos. 15–91 and 15–94, FCC 21–77 (June 17, 2021). Compliance with the introductory text and paragraphs (a) introductory text and (a)(8) will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing compliance date(s) with those paragraphs and revising those paragraphs accordingly.

* * * * *

■ 11. Section 11.44 is added to read as follows:

§ 11.44 Alert Repetition.

An alert originator may ''repeat'' an alert by releasing the alert anew—*i.e.,* re-originating the alert—at least one minute subsequent to the time the message was initially released by the originator, as reflected in the repeat alert's JJJHHMM header code. Because alerts take time to activate across the EAS alert distribution chain, alert originators should consider an interval between the original and re-originated alert that is long enough to account for this process. If the re-originated alert is intended to reflect a valid time period consistent with the original, the valid time period code (the +TTTT header code identified in § 11.31(c)) set for the re-originated alert should be adjusted to account for the elapsed time between the original and re-originated alerts. Alert originators should be aware that repeating alerts routinely may cause alert fatigue among the public.

■ 12. Section 11.45 is amended by revising paragraph (b) and adding paragraphs (c) and (d) to read as follows:

§ 11.45 Prohibition of false or deceptive EAS transmissions.

* * * * *

(b) No later than twenty-four (24) hours of an EAS Participant's discovery (*i.e.,* actual knowledge) that it has transmitted or otherwise sent a false alert to the public, the EAS Participant shall send an email to the Commission at the FCC Ops Center at *FCCOPS@fcc.gov,* informing the Commission of the event and of any details that the EAS Participant may have concerning the event.

(c) If the Administrator of the Federal Emergency Management Agency or a State, local, Tribal, or territorial government entity becomes aware of transmission of an EAS false alert to the public, they are encouraged to send an email to the Commission at the FCC Ops Center at *FCCOPS@fcc.gov,* informing the Commission of the event and of any details that they may have concerning the event.

(d) Compliance date(s)—paragraph (c) of this section contains an information-collection and recordkeeping requirement. Compliance with paragraph (c) will not be required until after approval by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing compliance date(s) for this paragraph and revising this paragraph accordingly.

[FR Doc. 2021–15175 Filed 8–19–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 210210–0018; RTID 0648–XB312]

Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Prohibited Species Catch Limits in the Gulf of Alaska

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

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS is reapportioning the projected unused amount, 1,350 Chinook salmon prohibited species catch limit, from the vessels participating in directed fishing for pollock in the Central Regulatory Area of the Gulf of Alaska (GOA) to non-Rockfish Program catcher vessel sector participating in directed fishing for groundfish, other than pollock, in the Western and Central Regulatory Areas of the GOA. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), August 18, 2021, until 2400 hours A.l.t., December 31, 2021.

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

SUPPLEMENTARY INFORMATION: Regulations governing fishing by U.S. vessels in accordance with the fishery management plan appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

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

The 2021 Chinook salmon PSC limit for vessels directed fishing for pollock using trawl gear in the Central Regulatory Area of the GOA is 18,316 Chinook salmon (§ 679.21(h)(2)(ii)).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that the vessels participating in directed fishing for pollock in the Central Regulatory Area of the GOA will not require 1,350 Chinook salmon of the Chinook salmon PSC limit allocated to those vessels under § 679.21(h)(2)(ii). Therefore, in accordance with § 679.21(h)(5)(iii) and taking into account the need of the sectors for Chinook salmon PSC, and following the limits set forth in § 679.21(h)(5)(iv)(D), NMFS reapportions 1,350 Chinook salmon PSC limit to the non-Rockfish Program catcher vessel sector participating in the directed fishery for groundfish, other than pollock, in the Western and Central Regulatory Areas of the GOA.

The 2021 Chinook salmon PSC limits are revised as follows: 16,966 Chinook salmon for vessels participating in directed fishing for pollock in the Central Regulatory Area of the GOA (18,316 minus 1,350 Chinook salmon) and 4,410 Chinook salmon to the non-Rockfish Program catcher vessel sector participating in directed fishing for groundfish, other than pollock, in the Western and Central Regulatory Areas of the GOA (3,060 plus 1,350 Chinook salmon).

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Chinook salmon to the non-Rockfish Program catcher vessel sector in the Western and Central Regulatory Areas of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 16, 2021.

The Assistant Administrator for Fisheries, NOAA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

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

Dated: August 17, 2021.

David R. Blankinship,

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

[FR Doc. 2021–17867 Filed 8–17–21; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 159
Friday, August 20, 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 ENERGY

10 CFR Parts 430 and 431

[EERE–2019–BT–NOA–0011]

RIN 1904–AE24

Test Procedure Interim Waiver Process

AGENCY: Office of Energy Efficiency and Renewable Energy (EERE), U.S. Department of Energy.

ACTION: Notice of proposed rulemaking and request for comment.

SUMMARY: The U.S. Department of Energy (''DOE'' or the ''Department'') proposes to revise the Department's test procedure interim waiver process. The proposed revisions address areas of the test procedure interim waiver process regulations that may result in alternate test procedures that are inconsistent with the purpose and requirements of the Energy Policy and Conservation Act (''EPCA''), and that otherwise appear not to effectuate the statute properly.

DATES: DOE will accept comments, data, and information regarding this notice of proposed rulemaking on or before September 20, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by ''2021 Test Procedure Interim Waiver Process NOPR'' and docket number EERE–2019–BT–NOA–0011 and/or the regulatory information number (RIN) 1904–AE24, by any of the following methods:

(1) *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

(2) *Email: TPWaiverProcess2019NOA0011@ee.doe.gov.* Include ''2021 Test Procedure Interim Waiver Process NOPR'' and docket number EERE–2019–BT–NOA–0011 and/or RIN number 1904–AE24 in the subject line of the message. Submit electronic comments in WordPerfect, Microsoft Word, PDF, or ASCII file format, and avoid the use of special characters or any form of encryption.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

No telefacsimiles (faxes) will be accepted. For detailed instructions on submitting comments and additional information on the rulemaking process, see section V (Public Participation) of this document.

Docket: The docket for this rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *https://www.regulations.gov.* All documents in the docket are listed in the *https://www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at: *https://www.regulations.gov/docket?D=EERE-2019-BT-NOA-0011.* The *https://www.regulations.gov* web page contains instructions on how to access all documents, including public comments, in the docket.

FOR FURTHER INFORMATION CONTACT:

Ms. Sarah Butler, U.S. Department of Energy, Office of General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *Sarah.Butler@hq.doe.gov.*

Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of Proposal

On December 11, 2020, DOE published a final rule (''December 2020 Final Rule'') in the **Federal Register** that made significant revisions to its procedures for processing petitions for interim waivers from test procedures mandated pursuant to EPCA, found in 10 CFR 430.27 and 10 CFR 431.401 (85 FR 79802).

Subsequently, on January 20, 2021, the White House issued Executive Order 13990, ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.'' 86 FR 7037 (Jan. 25, 2021). Section 1 of that Order listed several policies related to the protection of public health and the environment, including reducing greenhouse gas emissions and bolstering the Nation's resilience to climate change. *Id.* at 86 FR 7037, 7041. Section 2 of the Order instructs all agencies to review ''existing regulations, orders, guidance documents, policies, and any other similar agency actions (agency actions) promulgated, issued, or adopted between January 20, 2017, and January 20, 2021, that are or may be inconsistent with, or present obstacles to, [these policies].'' *Id.* Agencies are then directed, as appropriate and consistent with applicable law, to consider suspending, revising, or rescinding these agency actions and to immediately commence work to confront the climate crisis. *Id.* In addition, the White House explicitly enumerated certain agency actions, including the December 2020 Final Rule, as actions that would be reviewed to determine consistency with Section 1 of the Order.[1] Executive Order 13990, Fact Sheet.

While E.O. 13990 triggered the Department's re-evaluation, DOE is relying on the analysis presented below, based upon EPCA, to revise its prior rule. In conducting its review of the December 2020 Final Rule, DOE has identified areas that do not meet DOE's responsibilities under EPCA. The December 2020 Final Rule mandates a process that may result in alternate test

[1] Fact Sheet: List of Agency Actions for Review (Jan. 20, 2021), *https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-list-of-agency-actions-for-review/.*

procedures that are inconsistent with EPCA's purpose and requirements. In addition, as discussed in greater detail in section III. of this document, upon reconsideration DOE believes provisions implemented by the December 2020 Final Rule could weaken energy conservation standards by allowing manufacturers to place noncompliant products in the market. In furtherance of its duties under EPCA and in accordance with Executive Order 13990, DOE is proposing revisions to its procedures for processing interim waiver requests.

In this document, DOE proposes to amend 10 CFR 430.27 and 10 CFR 431.401 by: (1) Removing the provisions, adopted in the December 2020 Final Rule, that interim waivers will be automatically granted if DOE fails to notify the petitioner of the disposition of the petition within 45 business days of receipt of the petition, and instead specifying that DOE will make best efforts to process any interim waiver request within 90 days of receipt; (2) providing the requirements for a complete petition for interim waiver, and specifying that DOE would notify petitioners of incomplete petitions via email, and that DOE will post a petition for interim waiver on its website within five business days of receipt of a complete petition; (3) stating the information that must be provided in a request to extend a waiver to additional basic models; (4) revising the compliance certification and representations requirements; (5) specifying that interim waivers will automatically terminate on the compliance date of a new or amended test procedure; (6) harmonizing 10 CFR 430.27(j) and 10 CFR 431.401(j) with enforcement requirements; and (7) allowing DOE to rescind or modify a waiver for appropriate reasons.

II. Authority and Background

A. Authority

EPCA,[2] Public Law 94–163 (42 U.S.C. 6291–6317) authorizes DOE to regulate the energy efficiency of a number of consumer products and industrial equipment types. Title III, Part B [3] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. Title III, Part C [4] of EPCA established the Energy Conservation Program for Certain Industrial Equipment. The energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures.

The Federal testing requirements consist of test procedures that manufacturers of covered products and equipment generally must use as the basis for: (1) Certifying to DOE that the product or equipment complies with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s); 42 U.S.C. 6316(a)), and (2) making representations about the efficiency of the products or equipment (42 U.S.C. 6293(c); 42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the product or equipment complies with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s); 42 U.S.C. 6316(a))

Under 42 U.S.C. 6293 and 42 U.S.C. 6314, EPCA sets forth the criteria and procedures DOE is required to follow when prescribing or amending test procedures for covered products and equipment. Specifically, test procedures must be reasonably designed to produce test results that reflect energy efficiency, energy use or estimated annual operating cost of a covered product or covered equipment during a representative average use cycle or period of use, and must not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3); 42 U.S.C. 6314(a)(2))

B. Background

This Notice of Proposed Rulemaking (''NOPR'') involves the regulatory provisions governing the submission and processing of test procedure waivers for both consumer products under Part A of EPCA and industrial equipment under Part A–1. DOE's regulations in Title 10 of the Code of Federal Regulations (CFR), § 430.27 (consumer products) and § 431.401 (commercial equipment) contain provisions allowing a person to seek a waiver from the test procedure requirements if certain conditions are met. DOE will grant a waiver from the test procedure requirements if DOE determines either that the basic model for which the waiver was requested contains a design characteristic that prevents testing of the basic model according to the prescribed test procedures, or that the prescribed test procedure evaluates the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 10 CFR 430.27(a)(1) and 10 CFR 431.401(a)(1). DOE may grant the waiver subject to conditions, including adherence to alternate test procedures. In addition, the waiver process permits parties submitting a petition for waiver to also file an application for interim waiver from the applicable test procedure requirements. 10 CFR 430.27(a) and 10 CFR 431.401(a). DOE will grant an interim waiver if it appears likely that the petition for waiver will be granted or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a decision on the petition for waiver. 10 CFR 430.27(e)(2) and 10 CFR 431.401(e)(2).

On May 1, 2019, DOE published a NOPR to amend the existing test procedure interim waiver process (the ''May 2019 NOPR''). 84 FR 18414. After considering the comments received, DOE published the December 2020 Final Rule, which significantly revised its procedures for test procedure interim waivers. 85 FR 79802.

The December 2020 Final Rule adopted an approach to DOE's test procedure interim waiver decision-making process that requires the Department to notify, in writing, an applicant for an interim waiver of the disposition of the request within 45 business days of receipt of the application. 10 CFR 430.27(e)(ii) and 10 CFR 431.401(e)(ii). Importantly, under the recent amendments, if DOE does not notify the applicant in writing of the disposition of the interim waiver within 45 business days, the interim waiver is granted and the manufacturer is authorized to test subject products or equipment using the alternate test procedure proposed by the manufacturer in the petition. *Id.* If DOE denies the interim waiver petition, DOE is required to notify the petitioner within 45 business days and post the notice on the website as well as publish its determination in the **Federal Register** as soon as possible after such notification. *Id.* If DOE ultimately denies an associated petition for waiver or grants the petition with a test procedure that differs from the alternate test procedure specified in the interim waiver, manufacturers are allowed a 180-day grace period before the manufacturer is required to use the DOE test procedure or the alternate test procedure specified in the decision and order to make representations regarding energy efficiency. 10 CFR 430.27(i)(1) and 10 CFR 431.401(i)(1).

In the December 2020 Final Rule, DOE made a policy decision to place significant weight on reducing manufacturers' burdens, providing

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

[3] For editorial reasons, Part B was redesignated as Part A upon codification in the U.S. Code.

[4] For editorial reasons, Part C was redesignated as Part A–1 upon codification in the U.S. Code.

greater certainty and transparency to manufacturers, and reducing delays in manufacturers' ability to bring innovative product options to consumers. 85 FR 79816. To justify these changes to DOE's interim waiver process, DOE noted that it intended to shift the burden of any delays in the review process onto the Department and allow for innovative products to be made available more quickly to consumers. 85 FR 79802, 79803 and 79811. However, as discussed further in section III. of this document, in reconsideration of the December 2020 Final Rule, DOE is weighing these policy considerations differently. DOE has tentatively determined that the changes under the December 2020 Final Rule may not allow DOE sufficient time to review an alternate test procedure, leading to increased risks to consumers of purchasing noncompliant products and decreased energy savings. Given EPCA's goal of energy conservation and DOE's statutory obligations under EPCA, DOE is placing greater weight on ensuring compliant test procedures, decreasing risks to consumers, and ensuring that DOE meets its statutory obligations.

III. Discussion of Proposed Revisions

DOE is reconsidering whether certain provisions implemented by the December 2020 Final Rule are appropriate or necessary. DOE acknowledges that its interim waiver process often involves a lengthy period following submission of interim waiver and waiver applications and imposes burdens on manufacturers who are unable to certify their products or equipment absent an interim waiver or waiver from DOE. The December 2020 Final Rule, however, mandates a process that, by prioritizing the speeding up of the petition process, may result in alternate test procedures that are inconsistent with EPCA's purpose and requirements and have adverse environmental impacts.

As noted previously, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product and covered equipment during a representative average use cycle or period of use. (42 U.S.C. 6293; 42 U.S.C. 6314) Manufacturers of covered products and covered equipment must use the prescribed DOE test procedure to certify that their products and equipment meet the applicable energy conservation standards adopted under EPCA, and also when making any other representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c), 6295(s), 42 U.S.C. 6314(d) and 42 U.S.C. 6316(a)) In accordance with EPCA, manufacturers are prohibited from distributing a covered product without first demonstrating compliance with applicable standards through the use of DOE test procedures. (42 U.S.C. 6302(a)(5), 42 U.S.C. 6295(s)) Under the interim waiver process established in the December 2020 Final Rule, an interim waiver granted by default after the 45-day period would lack DOE review and would not benefit from a determination that the alternate test procedure meets EPCA requirements. As demonstrated in the examples discussed, DOE often requires longer than 45 business days to adequately evaluate an alternate test procedure to make a determination that will accurately reflect the product's energy consumption during an average use cycle. The default waiver process may result in test procedures later found to be inconsistent with EPCA which would allow manufacturers to distribute noncompliant products in commerce, resulting in additional costs (*i.e.,* cost of energy use) to consumers.

DOE noted in the December 2020 Final Rule that some commenters stated that the amendments to the interim waiver process would weaken the energy conservation standards program because the automatic granting of interim waivers without review could place noncompliant products in the market and allow them to remain for an additional 180 days after DOE acts on the associated petition. 85 FR 79802, 79806. In addition, some commenters noted that the amendments could indirectly allow for backsliding of energy conservation standards, noting that 42 U.S.C. 6295(o)(1) forbids DOE from prescribing an energy conservation standard that decreases the required energy efficiency of a product. 85 FR 79802, 79813. These commenters argued that the amendments proposed in the May 2019 NOPR (and that were ultimately adopted in the December 2020 Final Rule) would lead to the same loss of efficiency that EPCA's anti-backsliding provision was intended to prevent. *Id.* DOE's decision under the December 2020 Final Rule reflected a policy choice to reject these comments raising concerns about the risks of non-compliant products in favor of greater certainty and transparency, and a less burdensome process for manufacturers. In support of the December 2020 Final Rule, DOE explained that the changes were in response to concerns that the current system for processing interim waiver petitions was not working as it should, and in DOE's view, manufacturers should not be constrained from selling their products for significant periods while DOE reviews the interim waiver petition. 85 FR 79802, 79807.

Upon further consideration, DOE is weighing these factors differently in light of recent analysis of petitions suggesting that the number of non-compliant test procedures granted without sufficient time to review is higher than DOE estimated and considering DOE's statutory obligations under EPCA. For example, on June 30, 2021, DOE issued a notice denying the interim waiver application from General Electric Appliance (GEA) for certain miscellaneous refrigeration product (MREF) basic models. 86 FR 35766. The original petition for waiver and interim waiver from the test procedure for MREFs set forth at appendix A to subpart B of 10 CFR part 430 was received on April 9, 2021. (GEA, No. 1 at p. 1) The original GEA petition did not contain sufficient information about the MREF basic models including necessary information about the use of these products, which is needed to determine an appropriate alternative method for testing. In response to the lack of information in the original petition, DOE sent GEA a number of technical questions, and GEA revised and supplemented its original petition twice. The revised alternate test procedure [5] included in the April 26, 2021 petition lead DOE to ask further technical questions to understand how the basic models subject to the petition worked in the field, to which GEA provided additional correspondence on June 2, 2021.[6] Based on these final clarifications, DOE was able to successfully evaluate the proposed interim wavier test procedure, which led DOE to deny the interim waiver because the alternative method proposed by GEA was not representative of an average use cycle for the basic models in question. 86 FR 35766.

From the time that DOE received GEA's original petition, to the time that the petition was denied, 55 business days passed. DOE was provided more than the 45-business day period in this case because GEA revised and supplemented its original petition in response to DOE's technical questions. However, if DOE did not have sufficient time to gather the additional information about GEA's MREF basic

[5] This document can be found in the docket for this test procedure waiver under Document No. 002.

[6] This document can be found in the docket for this test procedure waiver under Document No. 003.

models and how such models are applied in the field, an alternate test procedure could have erroneously been applied that did not meet the requirements in EPCA. DOE needed time to understand more about the product and the proposed alternate test procedure, and after several exchanges, came to understand that the GEA proposed alternate test procedure did not include all the energy consumption to represent an average use cycle and thus, the test procedure proposed by GEA was not representative. *See* 42 U.S.C. 6293. If the alternate test procedure proposed by GEA was automatically granted, the basic models subject to the interim waiver would be using a test procedure that underestimates the energy consumption of the product.

In another example on October 25, 2016, AHT filed a petition for waiver and interim waiver from the DOE test procedure for commercial refrigeration equipment set forth in 10 CFR part 431, subpart C, appendix B. (EERE–2017–BT–WAV–0027–0009, AHT, No. 0001 at pp. 1–10 (3)) AHT petitioned for waiver for six model lines that are capable of multi-mode operation (*i.e.,* as ice cream freezer and commercial refrigerator). In the petition, AHT stated that the DOE test procedure is not clear regarding how to test multi-mode equipment. 82 FR 15345, 15349. To address multi-mode operation, AHT requested that their equipment be tested and rated only as ice cream freezers (with integrated average temperature of −15 °F +/− 2.0 °F and use of total display area (TDA) to determine associated energy conservation standards). 82 FR 15345, 15349–15350.

In evaluating and adopting energy conservation standards, DOE generally divides covered equipment into classes by the type of energy used, or by capacity or other performance-related feature that justifies a different standard for equipment having such a feature. (42 U.S.C. 6295(q) and 42 U.S.C. 6316(e)(1)) Commercial refrigeration equipment is divided into various equipment classes categorized by specific physical and design characteristics, such as operating temperatures. These equipment classes have characteristics that impact efficiency and have different corresponding energy conservation standards for refrigerators, freezers, and ice-cream freezers under the current DOE regulations. AHT's proposed alternate test procedure would have rated its multi-mode basic models in a manner that was unrepresentative because it would have only accounted for ice-cream freezer mode operation and would not have accounted for freezer mode operation. As DOE explained in the notice of a petition for waiver, partial grant of an interim waiver, and request for public comment, DOE did not agree with AHT's assertion that the multi-mode regulations for commercial refrigeration equipment were unclear. 82 FR 15345, 15347. DOE reiterated that in the most recent commercial refrigeration equipment test procedure final rule, self-contained equipment or remote condensing equipment with thermostats capable of operating at temperatures that span multiple equipment categories must be certified and comply with DOE's regulations for each applicable equipment category. (Id.)

After evaluating AHT's petition and alternate test procedure, DOE partially granted AHT's interim waiver. 82 FR 15345. DOE required 102 business days for this review. If DOE did not have sufficient time to evaluate this test procedure waiver and AHT moved forward with its request without modification, AHT would not have been evaluating the multi-mode operation in a manner representative of field use in freezer mode and it may have resulted in equipment being distributed in commerce that may have otherwise been non-compliant with the energy conservation standards.

DOE has tentatively determined that the December 2020 Final Rule did not place sufficient weight on the potential for alternate test procedures granted without sufficient DOE review to allow manufacturers to place products in the market that do not meet applicable energy conservation standards. To the extent that test procedure results are unrepresentative and do not provide comparative data, energy savings may not be realized, and consumers may not be able to make informed choices. As discussed previously, DOE has an obligation under EPCA to ensure that all test procedures authorized by the Department yield measurements of energy consumption that are representative of actual product or equipment performance. (42 U.S.C. 6293) As commenters noted in the December 2020 Final Rule, a DOE test procedure that inaccurately measures energy use of a covered product or equipment could inadvertently allow for the backsliding of energy conservation measures in violation of 42 U.S.C. 9265(o). As seen with the GEA and AHT petitions, DOE cannot appropriately determine whether an alternate test procedure will accurately measure energy use if there is insufficient time to understand a product and validate an alternate test procedure. Accordingly, DOE is proposing to remove the provision that interim waivers will be automatically granted if DOE fails to notify the petitioner of the disposition of the petition within 45 business days of receipt. DOE also proposes to remove the language at 10 CFR 430.27(e)(1)(iii) and 10 CFR 431.401(e)(1)(iii) specifying when a petition is considered ''received'' by DOE. These provisions were added for purposes of determining the start of the 45 business day window and would serve no purpose if interim waivers are not automatically granted within a specified time period.

DOE requests comments, information, and data on its proposal to remove the provision that interim waivers will be automatically granted if DOE fails to respond to the request within 45 business days of receipt of the petition.

In addition, after further reflection of the approach adopted in the December 2020 Final Rule and considering DOE's available resources, DOE is reconsidering whether the 45 business day review timeframe provides sufficient time for DOE to properly evaluate a proposed alternate test procedure. As discussed in the December 2020 Final Rule, DOE's analysis of the processing time of 33 interim waivers between 2016 and 2018 showed long review periods between the receipt of the waiver application and issuance of an interim waiver. 85 FR 79802, 79812–79813. Of those 33 interim waiver requests, only four were granted within 45 business days of receipt. *Id.* On average, interim waiver requests received in 2016 took 162 days to resolve, those received in 2017 took 202 days, and those received in 2018 took 208 days. *Id.* DOE noted in the December 2020 Final Rule that this data illustrated that there was a need for issuance of a timely interim waiver. 85 FR 79802, 79813.

After further consideration, DOE acknowledges that there is a need for improvement in its process to more timely address interim waivers but DOE believes the 45 business day timeframe implemented by the December 2020 Final Rule is too brief and rigid. An inflexible rule can fail to take relevant circumstances into account. As seen with the GEA and AHT petitions, a longer time frame is often needed for DOE to understand the product, the proposed alternate test procedure, and whether that alternate test procedure will accurately reflect the product's energy consumption during an average use cycle. As noted in DOE's 2014 rulemaking on the petitions for waiver and interim waiver regulations, many delays in processing waiver applications arise from iterative efforts by DOE to obtain sufficient information upon

which to base a decision to grant an interim waiver. Making a determination that an alternate test procedure complies with EPCA also requires careful analysis and sometimes requires testing by DOE. 79 FR 26591, 29593 (May 9, 2014). DOE stated in the December 2020 Final Rule that a downside of this iterative process is the inability of interested stakeholders to participate in the development of an interim test procedure (85 FR 79802, 79809); however, DOE believes the risk of non-compliant alternate test procedures outweighs early stakeholder input. Further, interested stakeholders will not lose the ability to provide comment on the alternate test procedures as the regulations require notification of a proposed alternated test procedure to affected manufacturers and opportunity for comment. 10 CFR 430.24(b)(iv) and 10 CFR 431.401(b)(iv). DOE has a statutory obligation under EPCA to ensure that alternative test methods authorized by the Department yield measurements of energy consumption that are representative of actual performance. Providing a longer, flexible timeframe that better reflects DOE's experience will allow DOE to complete the analysis required, while providing a realistic timeframe on which manufacturers can more reasonably rely.

Accordingly, DOE proposes that DOE will make best efforts to respond to interim waiver requests within 90 business days. Based on DOE's experience, a period of 90 business days would still represent an improvement in response time, and in most cases would allow DOE sufficient time for proper analysis, review, and testing. Importantly, this proposal would ensure that DOE can fulfill its obligation under EPCA to ensure that alternative test methods yield results that are representative of the product's true energy (or water) consumption characteristics so as to provide materially accurate comparative data, while still accounting for how circumstances may dictate a lengthier period for consideration of a particular request.

DOE requests comments, information, and data on its proposal that DOE will make best efforts to respond to an interim waiver request within 90 business days.

To clarify the necessary contents of a petition for interim waiver, DOE is also proposing amendments to 10 CFR 430.27(b) and 10 CFR 431.401(b). As noted previously, many of the delays in interim waiver processing arise from the back-and-forth between DOE and manufacturers to ensure that the manufacturer has submitted the necessary information to support its request. Before DOE can act on a request for interim waiver, DOE may correspond with a manufacturer several times to obtain all necessary information and ensure that the manufacturer has submitted a complete petition. In addition, to formalize the process by which DOE will respond to incomplete petitions, DOE is proposing to specify at 10 CFR 430.27(e)(2) and 10 CFR 431.401(e)(2) that a petition for interim waiver will be considered incomplete if it does not meet the content requirements of 10 CFR 430.27(b) or 10 CFR 431.401(b), as applicable. In such a case, DOE will notify the petitioner of an incomplete petition via email. DOE will continue the iterative process by which DOE assists manufacturers in completing their petitions. DOE believes these amendments will provide clarity regarding the initial requirements for petition submissions. Consistent with these proposals, DOE also proposes to state at 10 CFR 430.27(e)(1) and 10 CFR 431.401(e)(1) that DOE will post a petition for interim waiver on its website within five business days of receipt of a *complete* petition.

DOE is similarly proposing amendments to 10 CFR 430.27(g) and 10 CFR 431.401(g) to specify the information that must be provided in a request to extend a waiver to additional basic models. Specifically, DOE proposes that the petition for extension must identify the particular basic model(s) for which a waiver extension is requested, each brand name under which the identified basic model(s) will be distributed in commerce, and documentation supporting the claim that the additional basic models employ the same technology as the basic model(s) set forth in the original petition. DOE believes that including these requirements in the regulations will make clear to manufacturers the information required for an extension request and allow DOE to process such requests more expeditiously.

DOE requests comments on its proposals to specify the contents of a complete petition for interim waiver, to formalize the process by which DOE will respond to incomplete petitions, and to specify the information that must be provided in a request to extend a waiver to additional basic models.

DOE is also proposing amendments to 10 CFR 430.27(h) and 10 CFR 431.401(h). The current regulations provide that upon publication in the **Federal Register** of a new or amended test procedure that addresses the issue(s) presented in a waiver, an interim waiver will cease to be in effect. 10 CFR 430.27(h)(1)(ii) and 10 CFR 431.401(h)(1)(ii). Under this provision, a manufacturer can no longer rely on an interim waiver upon the publication date of a new or amended test procedure. In contrast, final waivers automatically terminate on the date on which use of such test procedure is required to demonstrate compliance. To ensure equitable treatment of final waivers and interim waivers that are in place at the time a test procedure final rule publishes, DOE is proposing to specify that final waivers and interim waivers both automatically terminate on the compliance date of the test procedure final rule.

DOE requests comments on its proposal to specify that interim waivers in place at the time a test procedure final rule is published will automatically terminate on the compliance date of the test procedure final rule.

DOE is also proposing amendments to 10 CFR 430.27(i) and 10 CFR 431.401(i) to clearly state the transition period for compliance with a decision and order or test procedure final rule. DOE believes these amendments are necessary to make clear the transition periods for scenarios not previously addressed by these provisions. These provisions would apply to required certifications and any representations. DOE proposes to specify at 10 CFR 430.27(i)(1) and 10 CFR 431.401(i)(1) that manufacturers have 180 days (or up to 360 days, as applicable) to comply with a decision and order or test procedure methodology, unless otherwise specified by DOE in the decision and order. The existing language in these sections specifies that when basic models have already been certified using the test procedure permitted in DOE's grant of an interim test procedure waiver, a manufacturer is not required to re-test and re-rate those basic models under certain circumstances. DOE intends to retain this flexibility, but simplify this provision by stating that DOE may specify in the decision and order when certification reports and any representations need not be based on the decision and order test procedure methodology. DOE also proposes to specify at 10 CFR 430.27(i)(1) and 10 CFR 431.401(i)(1) that once a manufacturer uses the decision and order test procedure methodology in a certification report or any representation, all subsequent certification reports and any representations would be required to be made using the decision and order test procedure methodology while the waiver is valid. In addition, DOE is proposing similar amendments to clarify

when certification reports and any representations are required to be based on a new or amended test procedure. Specifically, 10 CFR 430.27(i)(2) and 10 CFR 431.401(i)(2) would provide that certification reports and any representations may be based on the testing methodology of an applicable final waiver or interim waiver, or the new or amended test procedure until the compliance date of the amended test procedure. Thereafter, certification reports and any representations must be based on the test procedure final rule methodology unless specified by DOE in the test procedure final rule. Consistent with this provision, as necessary, DOE would be able to specify in a test procedure final rule that a manufacturer need not recertify basic models where testing under the interim waiver or final waiver test procedure methodology, as compared to the amended test procedure methodology, does not result in a change in measured energy use. This section would also specify that once a manufacturer uses the test procedure final rule methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the test procedure final rule methodology.

DOE requests comments on the proposed amendment to 10 CFR 430.27(i) and 10 CFR 431.401(i).

In addition, DOE is proposing amendments to 10 CFR 430.27(j) and 10 CFR 431.401(j) for simplification and consistency with the enforcement requirements at 10 CFR part 429. Under 10 CFR 430.27(j) and 10 CFR 431.401(j) manufacturers of products or equipment employing a technology or characteristic for which a waiver was granted for another basic model must also seek a waiver for basic models of their product or equipment. Under these provisions, manufacturers currently distributing such products in commerce have 60 days to submit a waiver application and manufacturers of such products that are not currently distributing such products in commerce must petition for and be granted a waiver prior to distribution in commerce. When originally implemented, the intent of these provisions was to ensure that similar products are rated in a comparable manner. 77 FR 74616, 74618. DOE wishes to preserve this intent, but believes this language to be confusing when read in context with 10 CFR part 429. Pursuant to 10 CFR 429.12, a basic model must be certified prior to distribution in commerce, and that certification must be based on testing conducted in conformance with the applicable test requirements prescribed in 10 CFR parts 429, 430 and 431, or in accordance with the terms of an applicable test procedure waiver. Manufacturers must comply with 10 CFR part 429 prior to distributing their product in commerce (*i.e.,* there is no grace period) and 10 CFR part 429 draws no distinction between models currently being distributed and models that will be distributed in the future. To align with 10 CFR part 429, DOE proposes to remove the 60 day period and to make no distinction between models currently being distributed and models that will be distributed in the future. DOE believes the proposed amendments continue to achieve the original intent of paragraph (j) while better aligning with 10 CFR part 429.

DOE requests comments on the proposed amendment to 10 CFR 430.27(j) and 10 CFR 431.401(j).

Finally, DOE is proposing an amendment to 10 CFR 430.27(k)(1) and 10 CFR 431.401(k)(1). Currently those provisions provide that DOE may rescind or modify a waiver or interim waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver or interim waiver is incorrect or upon a determination that the results from the alternate test procedure are unrepresentative of the basic model(s)' true energy consumption characteristics. DOE envisions that there could be other circumstances, such as new methodology, that might necessitate modification of a waiver. As such, DOE proposes to add to this provision that DOE may rescind or modify a waiver for other appropriate reasons.

DOE requests comments on the proposed amendment to 10 CFR 430.27(k)(1) and 10 CFR 431.401(k)(1).

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) waived Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review'' review of this proposed rule.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996) requires preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment and a final regulatory flexibility analysis (FRFA) for any such rule that an agency adopts as a final rule, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative effects. Also, as required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website at: *https://energy.gov/gc/office-general-counsel.*

This proposed rule would not impose any new requirements on any manufacturers, including small businesses. This proposed rule removes the provision automatically granting interim waivers within 45 business days of receipt and proposes to add a new provision that DOE will make best efforts to process an interim waiver request within 90 days of receipt. While this proposal allows DOE a longer period to review interim waiver petitions, consistent with DOE's current enforcement policy, manufacturers can sell products tested in accordance with a filed petition without fear of enforcement action.[7] As such, DOE anticipates any additional review period will minimally impact manufacturers, including small businesses. Under this proposed rule, DOE is also specifying a number of requirements for complete petitions for interim waiver and petitions for an extension of a waiver. These proposals are not new requirements (*i.e.,* petitions must currently include this information), but are proposed to be included in DOE's regulations to make clear to manufacturers the information required for a petition or an extension request and allow DOE to process such requests more expeditiously. DOE is also proposing to eliminate the 60-day period from 10 CFR 430.27(j) and 10 CFR 431.401(j) to align with enforcement requirements at 10 CFR part 429. DOE believes this amendment will minimally impact manufacturers, including small businesses, as they are already subject to the requirements at 10 CFR part 429 which provides no grace

[7] Department of Energy, Enforcement Policy Statement—Pending Test Procedure Waiver Applications (Apr. 5. 2017), *available at https://www.energy.gov/sites/default/files/2017/04/f34/Enforcement%20Policy%20-%20waivers.pdf.*

period. Finally, DOE believes its proposals to revise the compliance certification and representation requirements and to clarify the duration of interim waivers will provide clarity to manufacturers and do not increase the burden on manufacturers, including small businesses. DOE does not anticipate any impact on small businesses as a result of the proposed amendments to 10 CFR 430.27(k)(1) and 10 CFR 431.401(k)(1).

For these reasons, DOE certifies that this proposed rule, if promulgated, would not have a significant economic impact on a substantial number of small entities, and therefore, no regulatory flexibility analysis has been prepared. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel of Advocacy of the SBA pursuant to 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of covered products/equipment must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for such products/equipment, including any amendments adopted for those test procedures, on the date that compliance is required. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment. 76 FR 12422 (March 7, 2011); 80 FR 5099 (Jan. 30, 2015). The collection-of-information requirement for certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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

Specifically, this proposed rule, addressing revisions to DOE's test procedure waiver process, does not contain any collection of information requirement that would trigger the PRA.

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed regulation in accordance with the National Environmental Policy Act (NEPA) and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for rulemakings interpreting or amending an existing rule or regulation that does not change the environmental effect of the rule or regulation being amended. 10 CFR part 1021, subpart D, appendix A5. DOE anticipates that this rulemaking qualifies for categorical exclusion A5 because it amends an existing rule and does not change the environmental effect of the rule and otherwise meets the requirements for application of a categorical exclusion. See 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final rule.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined this proposed rule and has determined that it would not preempt State law and would not have a substantial direct effect on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. (Pub. L. 104–4, sec. 201 (codified at 2 U.S.C. 1531)) For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. (62 FR 12820) (This policy is also available at *https://www.energy.gov/gc/office-general-counsel* under ''Guidance & Opinions'' (Rulemaking)) DOE examined the proposed rule according to UMRA and its statement of policy and has determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result

in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year. Accordingly, no further assessment or analysis is required under UMRA.

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

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

I. Review Under Executive Order 12630

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

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for Federal agencies to review most disseminations of information to the public under information quality guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with the applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to OIRA a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1)(i) Is a significant regulatory action under Executive Order 12866, or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy, and it has not been designated by the Administrator of OIRA as a significant energy action; it therefore is not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Consistent With OMB's Information Quality Bulletin for Peer Review

On December 16, 2004, OMB, in consultation with the Office of Science and Technology Policy (OSTP), issued its Final Information Quality Bulletin for Peer Review (the Bulletin). 70 FR 2664 (Jan. 14, 2005). The Bulletin establishes that certain scientific information shall be peer reviewed by qualified specialists before it is disseminated by the Federal Government, including influential scientific information related to agency regulatory actions. The purpose of the bulletin is to enhance the quality and credibility of the Government's scientific information. Under the Bulletin, the energy conservation standards rulemaking analyses are ''influential scientific information,'' which the Bulletin defines as ''scientific information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions.'' *Id.* at 70 FR 2667.

In response to OMB's Bulletin, DOE conducted formal in-progress peer reviews of the energy conservation standards development process and analyses and has prepared a Peer Review Report pertaining to the energy conservation standards rulemaking analyses. Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. The ''Energy Conservation Standards Rulemaking Peer Review Report,'' dated February 2007, has been disseminated and is available at the following website: *https://www1.eere.energy.gov/buildings/appliance_standards/peer_review.html.* Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. The results from that review are expected later in 2021.

V. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via https://www.regulations.gov. The *https://www.regulations.gov* web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *https://www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *https://www.regulations.gov* cannot be claimed as CBI. Comments received through the

website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *https://www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *https://www.regulations.gov* provides after you have successfully uploaded your comment.

Submitting comments via email. Comments and documents submitted via email will be posted to *https://www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No telefacsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English, and free of any defects or viruses. Documents should not contain special characters or any form of encryption, and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

Signing Authority

This document of the Department of Energy was signed on July 26, 2021, by Dr. Kathleen B. Hogan, Acting Under Secretary for Energy and Science, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

List of Subjects

10 CFR Part 430

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

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Test procedures, Incorporation by reference, Reporting and recordkeeping requirements.

Signed in Washington, DC, on July 27, 2021.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE is proposing to amend parts 430, and 431 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

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

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

■ 2. Section 430.27 is amended by revising paragraphs (b), (e), (g), (h), (i), (j), and (k)(1) to read as follows:

§ 430.27 Petitions for waiver and interim waiver of the test procedure.

* * * * *

(b) *Petition content and publication.* (1) Each petition for interim waiver and waiver must:

(i) Identify the particular basic model(s) for which a waiver is requested, each brand name under which the identified basic model(s) will be distributed in commerce, the design characteristic(s) constituting the grounds for the petition, and the specific requirements sought to be waived, and must discuss in detail the need for the requested waiver;

(ii) Identify manufacturers of all other basic models distributed in commerce in the United States and known to the petitioner to incorporate design characteristic(s) similar to those found in the basic model that is the subject of the petition;

(iii) Include any alternate test procedures known to the petitioner to evaluate the performance of the product type in a manner representative of the energy and/or water consumption characteristics of the basic model; and

(iv) Be signed by the petitioner or an authorized representative. In accordance with the provisions set forth in 10 CFR 1004.11, any request for confidential treatment of any information contained in a petition or in supporting documentation must be accompanied by a copy of the petition, application or supporting documentation from which the information claimed to be confidential has been deleted. DOE will publish in the **Federal Register** the petition and supporting documents from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11 and will solicit comments, data and information with respect to the determination of the petition.

(2) In addition to the requirements in paragraph (b)(1) of this section, each petition for interim waiver must reference the related petition for waiver, demonstrate likely success of the petition for waiver, and address what economic hardship and/or competitive disadvantage is likely to result absent a

favorable determination on the petition for interim waiver.

* * * * *

(e) *Provisions specific to interim waivers*—(1) *Disposition of petition.* DOE will post a petition for interim waiver on its website within 5 business days of receipt of a complete petition. DOE will make best efforts to review a petition for interim waiver within 90 business days of receipt of a complete petition.

(2) *Incomplete petitions.* A petition for interim waiver that does not meet the content requirements of paragraph (b) of this section will be considered incomplete. DOE will notify the petitioner of an incomplete petition via email.

(3) *Criteria for granting.* DOE will grant an interim waiver from the test procedure requirements if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. Notice of DOE's determination on the petition for interim waiver will be published in the **Federal Register**.

* * * * *

(g) *Extension to additional basic models.* A petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition. The petition for extension must identify the particular basic model(s) for which a waiver extension is requested, each brand name under which the identified basic model(s) will be distributed in commerce, and documentation supporting the claim that the additional basic models employ the same technology as the basic model(s) set forth in the original petition. DOE will publish any such extension in the **Federal Register**.

(h) *Duration.* (1) Within one year of issuance of an interim waiver, DOE will either:

(i) Publish in the **Federal Register** a determination on the petition for waiver; or

(ii) Publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver.

(2) When DOE publishes a decision and order on a petition for waiver in the **Federal Register** pursuant to paragraph (f) of this section, the interim waiver will terminate 180 days after the publication date of the decision and order.

(3) When DOE amends the test procedure to address the issues presented in a waiver, the waiver or interim waiver will automatically terminate on the compliance date of the amended test procedure.

(i) *Compliance certification and representations.* If the interim waiver test procedure methodology is different than the decision and order test procedure methodology, certification reports to DOE required under 10 CFR 429.12 and any representations may be based on either of the two methodologies until 180 days after the publication date of the decision and order.

(j) *Petition for waiver required of other manufactures.* Any manufacturer of a basic model employing a technology or characteristic for which a waiver was granted for another basic model and that results in the need for a waiver (as specified by DOE in a published decision and order in the **Federal Register**) must petition for and be granted a waiver for that basic model. Manufacturers may also submit a request for interim waiver pursuant to the requirements of this section.

(k) *Rescission or modification.* (1) DOE may rescind or modify a waiver or interim waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver or interim waiver is incorrect, upon a determination that the results from the alternate test procedure are unrepresentative of the basic model(s)' true energy consumption characteristics, or for other appropriate reason. Waivers and interim waivers are conditioned upon the validity of statements, representations, and documents provided by the requestor; any evidence that the original grant of a waiver or interim waiver was based upon inaccurate information will weigh against continuation of the waiver. DOE's decision will specify the basis for its determination and, in the case of a modification, will also specify the change to the authorized test procedure.

* * * * *

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 3. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317; 28 U.S.C. 2461 note.

■ 4. Section 431.401 is amended by revising paragraphs (b), (e), (g), (h), (i), (j), and (k)(1) to read as follows:

§ 431.401 Petitions for waiver and interim waiver of the test procedure.

* * * * *

(b) *Petition content and publication.* (1) Each petition for interim waiver and waiver must:

(i) Identify the particular basic model(s) for which a waiver is requested, each brand name under which the identified basic model(s) will be distributed in commerce, the design characteristic(s) constituting the grounds for the petition, and the specific requirements sought to be waived, and must discuss in detail the need for the requested waiver;

(ii) Identify manufacturers of all other basic models distributed in commerce in the United States and known to the petitioner to incorporate design characteristic(s) similar to those found in the basic model that is the subject of the petition;

(iii) Include any alternate test procedures known to the petitioner to evaluate the performance of the product type in a manner representative of the energy and/or water consumption characteristics of the basic model; and

(iv) Be signed by the petitioner or an authorized representative. In accordance with the provisions set forth in 10 CFR 1004.11, any request for confidential treatment of any information contained in a petition or in supporting documentation must be accompanied by a copy of the petition, application or supporting documentation from which the information claimed to be confidential has been deleted. DOE will publish in the **Federal Register** the petition and supporting documents from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11 and will solicit comments, data and information with respect to the determination of the petition.

(2) Each petition for interim waiver must reference the related petition for waiver, demonstrate likely success of the petition for waiver, and address what economic hardship and/or competitive disadvantage is likely to result absent a favorable determination on the petition for interim waiver.

* * * * *

(e) *Provisions specific to interim waivers*—(1) *Disposition of petition.* DOE will post a petition for interim waiver on its website within 5 business days of receipt of a complete petition. DOE will make best efforts to review a petition for interim waiver within 90 business days of receipt of a complete petition.

(2) *Incomplete petitions.* A petition for interim waiver that does not meet

the content requirements of paragraph (b) of this section will be considered incomplete. DOE will notify the petitioner of an incomplete petition via email.

(3) *Criteria for granting.* DOE will grant an interim waiver from the test procedure requirements if it appears likely that the petition for waiver will be granted and/or if DOE determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. Notice of DOE's determination on the petition for interim waiver will be published in the **Federal Register**.

* * * * *

(g) *Extension to additional basic models.* A petitioner may request that DOE extend the scope of a waiver or an interim waiver to include additional basic models employing the same technology as the basic model(s) set forth in the original petition. The petition for extension must identify the particular basic model(s) for which a waiver extension is requested, each brand name under which the identified basic model(s) will be distributed in commerce, and documentation supporting the claim that the additional basic models employ the same technology as the basic model(s) set forth in the original petition. DOE will publish any such extension in the **Federal Register**.

(h) *Duration.* (1) Within one year of issuance of an interim waiver, DOE will either:

(i) Publish in the **Federal Register** a final determination on the petition for waiver; or

(ii) Publish in the **Federal Register** a new or amended test procedure that addresses the issues presented in the waiver.

(2) When DOE publishes a decision and order on a petition for waiver in the **Federal Register** pursuant to paragraph (f) of this section, the interim waiver will 180 days after the publication date of the decision and order

(3) When DOE amends the test procedure to address the issues presented in a waiver, the waiver or interim waiver will automatically terminate on the date on which use of that test procedure is required to demonstrate compliance.

(i) *Compliance certification and representations.* (1) If the interim waiver test procedure methodology is different than the decision and order test procedure methodology, certification reports to DOE required under 10 CFR 429.12 and any representations may be based on either of the two methodologies until 180–360 days after the publication date of the decision and order, as specified by DOE in the decision and order. Thereafter, certification reports and any representations must be based on the decision and order test procedure methodology unless otherwise specified by DOE. Once a manufacturer uses the decision and order test procedure methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the decision and order test procedure methodology while the waiver is valid.

(2) When DOE publishes a new or amended test procedure, certification reports to DOE required under 10 CFR 429.12 and any representations may be based on the testing methodology of an applicable waiver or interim waiver, or the new or amended test procedure until the date on which use of such test procedure is required to demonstrate compliance unless otherwise specified by DOE in the test procedure final rule. Thereafter, certification reports and any representations must be based on the test procedure final rule methodology. Once a manufacturer uses the test procedure final rule methodology in a certification report or any representation, all subsequent certification reports and any representations must be made using the test procedure final rule methodology.

(j) *Petition for waiver required of other manufactures.* Any manufacturer of a basic model employing a technology or characteristic for which a waiver was granted for another basic model and that results in the need for a waiver (as specified by DOE in a published decision and order in the **Federal Register**) must petition for and be granted a waiver for that basic model. Manufacturers may also submit a request for interim waiver pursuant to the requirements of this section.

(k) *Rescission or modification.* (1) DOE may rescind or modify a waiver or interim waiver at any time upon DOE's determination that the factual basis underlying the petition for waiver or interim waiver is incorrect, upon a determination that the results from the alternate test procedure are unrepresentative of the basic model(s)' true energy consumption characteristics, or for other appropriate reason. Waivers and interim waivers are conditioned upon the validity of statements, representations, and documents provided by the requestor; any evidence that the original grant of a waiver or interim waiver was based upon inaccurate information will weigh against continuation of the waiver. DOE's decision will specify the basis for its determination and, in the case of a modification, will also specify the change to the authorized test procedure.

* * * * *

[FR Doc. 2021–16341 Filed 8–19–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2021–C–0787]

Piotrovska, PTY LTD.; Filing of Color Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by Australian Laboratory Services, PTY LTD., on behalf of Piotrovska, PTY LTD., proposing that the color additive regulations be amended to expand the permitted uses of synthetic iron oxide as a color additive to include use in edible decorative paint.

DATES: The color additive petition was filed on June 28, 2021.

ADDRESSES: For access to the docket to read background documents or 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.

FOR FURTHER INFORMATION CONTACT: Stephen DiFranco, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2710; or Jessica Larkin, Office of Regulations and Policy (HFS–024), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 721(d)(1) (21 U.S.C. 379e(d)(1))), we are giving notice that we have filed a color additive petition (CAP 1C0321), submitted by Australian Laboratory Services, PTY LTD., on behalf of Piotrovska, PTY LTD., Australian Laboratory Services, PTY LTD., 2–8 South Street Unit 10, Rydalmere, NSW, 2116, Australia. The

petition proposes to amend the color additive regulations at 21 CFR 73.200, a color additive regulation in 21 CFR part 73, ''Listing of Color Additives Exempt From Certification'') by expanding the permitted uses of synthetic iron oxide as a color additive to include use in edible decorative paint.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(k) because the substance is intended to remain in food through ingestion by consumers and is not intended to replace macronutrients in food. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist that would warrant an environmental assessment (see 21 CFR 25.21). If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: August 13, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–17770 Filed 8–19–21; 8:45 am]

BILLING CODE 4164–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 10 and 11

[PS Docket Nos. 15–94 and 15–91; FCC 21–77; FR ID 37636]

Emergency Alert System, Wireless Emergency Alerts; National Defense Authorization Act for Fiscal Year 2021

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (the FCC or Commission) seeks comment on several recommendations made by the Federal Emergency Management Agency (FEMA) to revise the Emergency Alert System (EAS) rules to delete outdated references, re-name certain EAS terms to enhance public awareness, and update EAS capabilities for alerts that are persistent during certain extreme emergencies.

DATES: Comments are due on or before October 19, 2021, and reply comments are due November 18, 2021.

ADDRESSES: You may submit comments, identified by PS Docket Nos. 15–94 and 15–91, by any of the following methods:

- *Federal Communications Commission's Website: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: David Munson, Attorney Advisor, Public Safety and Homeland Security Bureau at 202–418–2921 or *David.Munson@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order and Further Notice of Proposed Rulemaking (*R&O and FNPRM*), in PS Docket Nos. 15–94 and 15–91, FCC 21–77, adopted and released on June 17, 2021. The full text of this document is available at *https://www.fcc.gov/document/fcc-further-strengthens-emergency-alerting-0.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

The proceeding the *FNPRM* initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules, 47 CFR 1.1200 *et seq.* Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and

must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Synopsis

In the Further Notice of Proposed Rulemaking (*FNPRM*), the Commission seeks comment on several recommendations made by FEMA for revising the EAS rules to enhance its functionality. Specifically, the Commission seeks comment on FEMA's proposed rule changes recommending: (i) Deleting the National Information Center (NIC) event code from part 11 of the Commission's rules; (ii) replacing the EAS originator code for the ''Primary Entry Point System,'' from ''PEP,'' to ''NAT,'' which would stand for ''National Authority''; (iii) either modifying the definition for the Emergency Action Notification (EAN) event code from ''Emergency Action Notification (National Only),'' to ''Emergency Alert, National,'' or replacing the EAN event code with a new event code called ''NEM,'' defined as ''National Emergency Message''; and (iv) considering methods to update the EAS to ''support persistent display of alert information and/or persistent notification for emergencies that require immediate public protective actions to mitigate loss of life.''

Paperwork Reduction Act of 1995 Analysis

The *FNPRM* may contain new or modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). If the Commission adopts any new or modified information collection requirements, they will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *FNPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Notice. The Commission will send a copy of the *FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

In the *FNPRM,* the Commission seeks comment on proposed changes to the EAS rules suggested by FEMA. FEMA indicates the changes are needed to ensure that the Integrated Public Alert and Warning System (IPAWS) Open Platform for Emergency Networks that it manages is able to provide maximum effectiveness now and in the future in light of the requirements outlined in the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (NDAA21). Specifically, the Commission seeks comment on FEMA's proposed rule changes recommending: (i) Deleting the National Information Center (NIC) event code from part 11 of the Commission's rules; (ii) replacing the EAS originator code for the ''Primary Entry Point System,'' from ''PEP,'' to ''NAT,'' which would stand for ''National Authority''; (iii) either modifying the definition for the Emergency Action Notification (EAN) event code from ''Emergency Action Notification (National Only),'' to ''Emergency Alert, National,'' or replacing the EAN event code with a new event code called ''NEM,'' defined as ''National Emergency Message''; and (iv) considering methods to update the EAS to ''support persistent display of alert information and/or persistent notification for emergencies that require immediate public protective actions to mitigate loss of life.'' FEMA asserts that the NIC is no longer in use, and changing the PEP and EAN codes would prevent public confusion about their meaning if included in the visual scroll or audio message elements of an actual EAS alert. FEMA states that keeping alert information persistent would ensure that the pubic received the alert.

B. Legal Basis

The proposed action is authorized pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), and 606, as well as by sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act, 47 U.S.C. 1202(a), (b), (c), (f), 1203, 1204 and 1206, Section 202 of the Twenty-First Century Communications and Video Accessibility Act of 2010, as amended, 47 U.S.C. 613, and the National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388, section 9201, 47 U.S.C. 1201, 1206.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of, the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

Small Businesses, Small Organizations, and Small Governmental Jurisdictions. The Commission's action may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 30.7 million businesses.

Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Internal Revenue Service (IRS)

uses a revenue benchmark of $50,000 or less to delineate its annual electronic filing requirements for small exempt organizations. Nationwide, for tax year 2018, there were approximately 571,709 small exempt organizations in the U.S. reporting revenues of $50,000 or less according to the registration and tax data for exempt organizations available from the IRS.

Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2017 Census of Governments indicate that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 36,931 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,040 special purpose governments—independent school districts with enrollment of less than 50,000. Accordingly, based on the 2017 U.S. Census of Governments data, the Commission estimates that at least 48,971 entities fall into the category of ''small governmental jurisdictions.''

Radio Stations. This Economic Census category comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' The SBA has established a small business size standard for this category as firms having $41.5 million or less in annual receipts. Economic Census data for 2012 show that 2,849 radio station firms operated during that year. Of that number, 2,806 firms operated with annual receipts of less than $25 million per year, 17 with annual receipts between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Therefore, based on the SBA's size standard, the majority of such entities are small entities.

In addition to the U.S. Census Bureau's data, based on Commission data the Commission estimates that there are 4,560 licensed AM radio stations, 6,704 commercial FM radio stations and 8,339 FM translator and booster stations. The Commission has also determined that there are 4,196 noncommercial educational (NCE) FM radio stations. The Commission however does not compile and does not otherwise have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities under the SBA size standard.

The Commission also notes that in assessing whether a business entity qualifies as small under the above definition, business control affiliations must be included. The Commission's estimate therefore likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, to be determined a ''small business,'' an entity may not be dominant in its field of operation. The Commission further notes that it is difficult at times to assess these criteria in the context of media entities, and the estimate of small businesses to which these rules may apply does not exclude any radio station from the definition of a small business on these bases, thus the Commission's estimate of small businesses may therefore be over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

FM Translator Stations and Low-Power FM Stations. FM translators and Low Power FM Stations are classified in the category of Radio Stations and are assigned the same NAICS Code as licensees of radio stations. This U.S. industry, Radio Stations, comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has established a small business size standard which consists of all radio stations whose annual receipts are $38.5 million dollars or less. U.S. Census Bureau data for 2012 indicate that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year, 17 with annual receipts between $25 million and $49,999,999 million and 26 with annual receipts of $50 million or more. Therefore, based on the SBA's size standard the Commission concludes that the majority of FM Translator Stations and Low Power FM Stations are small.

The Commission notes again, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. Because the Commission does not include or aggregate revenues from affiliated companies in determining whether an entity meets the applicable revenue threshold, its estimate of the number of small radio broadcast stations affected is likely overstated. In addition, as noted above, one element of the definition of ''small business'' is that an entity would not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio broadcast station is dominant in its field of operation. Accordingly, the Commission's estimate of small radio stations potentially affected by the rule revisions discussed in the *FNPRM* includes those that could be dominant in their field of operation. For this reason, such estimate likely is over-inclusive.

Television Broadcasting. This Economic Census category ''comprises establishments primarily engaged in broadcasting images together with sound.'' These establishments operate television broadcast studios and facilities for the programming and transmission of programs to the public. These establishments also produce or transmit visual programming to affiliated broadcast television stations, which in turn broadcast the programs to the public on a predetermined schedule. Programming may originate in their own studio, from an affiliated network, or from external sources. The SBA has created the following small business size standard for such businesses: Those having $41.5 million or less in annual receipts. The 2012 Economic Census reports that 751 firms in this category operated in that year. Of that number, 656 had annual receipts of $25,000,000 or less, and 25 had annual receipts between $25,000,000 and $49,999,999. Based on this data, the Commission therefore estimates that the majority of commercial television broadcasters are small entities under the applicable SBA size standard.

The Commission has estimated the number of licensed commercial television stations to be 1,368. According to Commission staff review of the BIA Kelsey Inc. Media Access Pro Television Database (BIA) on November 16, 2017, 1,258 stations (or about 91 percent) had revenues of $38.5 million or less, and therefore these licensees qualified as small entities under the SBA definition. In addition, the Commission has estimated the number of licensed noncommercial educational television stations to be 390. Notwithstanding, the Commission does not compile and otherwise does not have access to information on the

revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities. There are also 2,246 low power television stations, including Class A stations (LPTV), and 3,543 TV translator stations. Given the nature of these services, the Commission will presume that all of these entities qualify as small entities under the above SBA small business size standard.

The Commission notes, however, that in assessing whether a business concern qualifies as ''small'' under the above definition, business (control) affiliations must be included. The Commission's estimate, therefore, likely overstates the number of small entities that might be affected by its action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. In addition, another element of the definition of ''small business'' requires that an entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific television broadcast station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any television station from the definition of a small business on this basis and is therefore possibly over-inclusive. Also, as noted above, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and its estimates of small businesses to which they apply may be over-inclusive to this extent.

Cable and Other Subscription Programming. The U.S. Census Bureau defines this industry as establishments primarily engaged in operating studios and facilities for the broadcasting of programs on a subscription or fee basis. The broadcast programming is typically narrowcast in nature (*e.g.,* limited format, such as news, sports, education, or youth-oriented). These establishments produce programming in their own facilities or acquire programming from external sources. The programming material is usually delivered to a third party, such as cable systems or direct-to-home satellite systems, for transmission to viewers. The SBA size standard for this industry establishes as small, any company in this category which receives annual receipts of $41.5 million or less. According to 2012 U.S. Census Bureau data, 367 firms operated for the entire year. Of that number, 319 operated with annual receipts of less than $25 million a year and 48 firms operated with annual receipts of $25 million or more. Based on this data, the Commission estimates that the majority of firms operating in this industry are small.

Cable System Operators (Rate Regulation Standard). The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are 4,600 active cable systems in the United States. Of this total, all but five cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, the Commission estimates that most cable systems are small entities.

Cable System Operators (Telecom Act Standard). The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' As of 2019, there were approximately 48,646,056 basic cable video subscribers in the United States. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that all but nine incumbent cable operators are small entities under this size standard. The Commission notes that it neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

Satellite Telecommunications. This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' Satellite telecommunications service providers include satellite and earth station operators. The category has a small business size standard of $35 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 show that there was a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

All Other Telecommunications. The ''All Other Telecommunications'' category is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry. The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, U.S. Census data for 2012 show that there were 1,442 firms that operated for the entire year. Of these firms, a total of 1,400 had gross annual receipts of less than $25 million. Thus, the Commission estimates that the majority of ''All Other Telecommunications'' firms potentially affected by its action can be considered small.

Broadband Radio Service and Educational Broadband Service. Broadband Radio Service systems, previously referred to as Multipoint Distribution Service (MDS) and Multichannel Multipoint Distribution Service (MMDS) systems, and ''wireless cable,'' transmit video programming to subscribers and provide two-way high speed data operations using the

microwave frequencies of the Broadband Radio Service (BRS) and Educational Broadband Service (EBS) (previously referred to as the Instructional Television Fixed Service (ITFS)).

BRS—In connection with the 1996 BRS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of no more than $40 million in the previous three calendar years. The BRS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. BRS also includes licensees of stations authorized prior to the auction. At this time, the Commission estimates that of the 61 small business BRS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 86 incumbent BRS licensees that are considered small entities (18 incumbent BRS licensees do not meet the small business size standard). After adding the number of small business auction licensees to the number of incumbent licensees not already counted, there are currently approximately 133 BRS licensees that are defined as small businesses under either the SBA or the Commission's rules.

In 2009, the Commission conducted Auction 86, the sale of 78 licenses in the BRS areas. The Commission offered three levels of bidding credits: (i) A bidder with attributed average annual gross revenues that exceed $15 million and do not exceed $40 million for the preceding three years (small business) received a 15 percent discount on its winning bid; (ii) a bidder with attributed average annual gross revenues that exceed $3 million and do not exceed $15 million for the preceding three years (very small business) received a 25 percent discount on its winning bid; and (iii) a bidder with attributed average annual gross revenues that do not exceed $3 million for the preceding three years (entrepreneur) received a 35 percent discount on its winning bid. Auction 86 concluded in 2009 with the sale of 61 licenses. Of the ten winning bidders, two bidders that claimed small business status won 4 licenses; one bidder that claimed very small business status won three licenses; and two bidders that claimed entrepreneur status won six licenses.

EBS—Educational Broadband Service has been included within the broad economic census category and SBA size standard for Wired Telecommunications Carriers since 2007. Wired Telecommunications Carriers are comprised of establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or a combination of technologies.'' The SBA's small business size standard for this category is all such firms having 1,500 or fewer employees. U.S. Census Bureau data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small. In addition to Census data, the Commission's Universal Licensing System indicates that as of October 2014, there are 2,206 active EBS licenses. The Commission estimates that of these 2,206 licenses, the majority are held by non-profit educational institutions and school districts, which are by statute defined as small businesses.

Direct Broadcast Satellite (''DBS'') Service. DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. DBS is included in the category of ''Wired Telecommunications Carriers.'' The Wired Telecommunications Carriers industry comprises establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired telecommunications networks. Transmission facilities may be based on a single technology or combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution; and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry. The SBA size standard considers a wireline business is small if it has fewer than 1,500 employees. U.S. Census Bureau data for 2012 indicates that 3,117 wireline companies were operational during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on that data, the Commission concludes that the majority of wireline firms are small under the applicable SBA standard. Currently, however, only two entities provide DBS service, which requires a great deal of capital for operation: DIRECTV (owned by AT&T) and DISH Network. DIRECTV and DISH Network each report annual revenues that are in excess of the threshold for a small business. Accordingly, the Commission must conclude that internally developed FCC data are persuasive that, in general, DBS service is provided only by large firms.

Wireless Telecommunications Carriers (except Satellite). This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees, and 12 firms had employment of 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

AWS Services (1710–1755 MHz and 2110–2155 MHz bands (AWS–1); 1915–1920 MHz, 1995–2000 MHz, 2020–2025 MHz and 2175–2180 MHz bands (AWS–2); 2155–2175 MHz band (AWS–3)). For the AWS–1 bands, the Commission has defined a ''small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $40 million, and a ''very small business'' as an entity with average annual gross revenues for the preceding three years not exceeding $15 million. For AWS–2 and AWS–3, although the Commission does not know for certain which entities are likely to apply for these frequencies, it notes that the AWS–1 bands are comparable to those used for cellular service and personal communications service. The Commission has not yet adopted size standards for the AWS–2 or AWS–3 bands but proposes to treat both AWS–2 and AWS–3 similarly to broadband PCS service and AWS–1 service due to the comparable capital requirements

and other factors, such as issues involved in relocating incumbents and developing markets, technologies, and services.

Narrowband Personal Communications Services. Two auctions of narrowband personal communications services (PCS) licenses have been conducted. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the Narrowband PCS Second Report and Order. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards.

Broadband Personal Communications Service. The broadband personal communications service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission initially defined a ''small business'' for C- and F-Block licenses as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For F-Block licenses, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These standards defining ''small entity'', in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that claimed small business status in the first two C-Block auctions. A total of 93 bidders that claimed small business status won approximately 40 percent of the 1,479 licenses in the first auction for the D-, E-, and F-Blocks. On April 15, 1999, the Commission completed the reauction of 347 C-, D-, E-, and F-Block licenses in Auction No. 22. Of the 57 winning bidders in that auction, 48 claimed small business status and won 277 licenses.

On January 26, 2001, the Commission completed the auction of 422 C- and F-Block Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in that auction, 29 claimed small business status. Subsequent events concerning Auction No. 35, including judicial and agency determinations, resulted in a total of 163 C- and F-Block licenses being available for grant. On February 15, 2005, the Commission completed an auction of 242 C-, D-, E-, and F-Block licenses in Auction No. 58. Of the 24 winning bidders in that auction, 16 claimed small business status and won 156 licenses. On May 21, 2007, the Commission completed an auction of 33 licenses in the A-, C-, and F-Blocks in Auction No. 71. Of the 12 winning bidders in that auction, five claimed small business status and won 18 licenses. On August 20, 2008, the Commission completed the auction of 20 C-, D-, E-, and F-Block Broadband PCS licenses in Auction No. 78. Of the eight winning bidders for Broadband PCS licenses in that auction, six claimed small business status and won 14 licenses.

Wireless Communications Services. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. In the Commission's auction for geographic area licenses in the WCS there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity.

Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment. The SBA has established a small business size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees, and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry are small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

FEMA's recommendations proposing changes for which comment is sought in the Notice, if adopted, would impose additional reporting, recordkeeping or other compliance obligations on certain small, as well as other, entities required to distribute EAS alerts to the public (*i.e.,* ''EAS Participants''), and that manufacture EAS equipment. At this time the Commission is not currently in a position to determine whether, if adopted, the FEMA's proposed changes will require small entities to hire attorneys, engineers, consultants, or other professionals to comply and cannot quantify the cost of compliance with the potential rule changes and compliance obligations raised for comment in the *FNPRM.* In the Commission's request for comments on FEMA's proposals, it has requested information on the cost of implementing the proposed changes as well as potential alternatives to the proposed recommendations, particularly less costly alternatives that should be considered.

As proposed by FEMA, its recommendation to replace the EAS originator code for the ''Primary Entry Point System,'' from ''PEP,'' to ''NAT,'' which would stand for ''National Authority,'' and to modify the definition for the EAN event code from ''Emergency Action Notification (National Only),'' to ''Emergency Alert National,'' or replace the EAN event code with a new event code called ''NEM,'' defined as ''National Emergency Message,'' would require EAS equipment manufacturers to develop software updates to implement the new codes in deployed EAS equipment and EAS equipment in production. EAS Participants would also be required to acquire and install a software update to change the codes in their EAS devices. Some EAS device models currently in deployment might not be capable of being updated to reflect the new codes, and those devices will have to be replaced. Updating or replacing deployed devices to reflect these proposed FEMA code changes would be at the expense of EAS Participants.

FEMA has also recommended that the Commission consider methods to

update the EAS to ''support persistent display of alert information and/or persistent notification for emergencies that require immediate public protective actions to mitigate loss of life.'' Updating the EAS to support persistent alerts would likely require extensive modifications to the EAS. To comply with such a requirement if adopted, EAS equipment manufacturers would likely be required to develop software and/or firmware changes to implement such functionality in deployed EAS equipment and EAS equipment in production. Similar to FEMA's code change proposal recommendations, such changes would require EAS Participants to acquire and install the software/firmware update to enable the functionality in their EAS devices, and devices currently deployed with EAS capabilities that are not be capable of being updated to reflect such functionality will have to be replaced. It is also possible that such functionality will require modifications to non-EAS equipment that receive and process the EAS device alert content output and convert it into a visual scroll. EAS Participants would also bear the expenses to update or replace deployed devices to enable this proposed EAS functionality.

To help the Commission more fully evaluate the cost of compliance if it were to adopt FEMA's proposals, in the *FNPRM,* the Commission requests comments on the cost implications to implement the proposed recommendations and asks whether there are more efficient and less burdensome alternatives that might achieve the same results. the Commission expects the information it receives in comments, including cost and benefit analyses, to help it identify and evaluate relevant matters for small entities, including compliance costs and other burdens that may result if the proposed recommendations in the *FNPRM* were adopted.

E. Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant, specifically small business alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design, standards; and (4) and exemption from coverage of the rule, or any part thereof, for such small entities.''

In the *FNPRM,* the Commission took the steps and raised for consideration the alternatives discussed herein which could minimize any significant economic impact on small entities of FEMA's recommended EAS proposed rules changes. Regarding FEMA's recommended event code rule changes, the Commission asks for comments on whether the proposed FEMA changes should be adopted. Where FEMA has presented two options in a recommendation, the Commission asks whether the proposed options are appropriate, and if so, what is the preferred approach. The Commission also inquires about the implications for EAS and other equipment, for other EAS and related Commission rules, and for technical and operation plans and protocols relating to EAS alerts. Further, the Commission inquires whether the proposed FEMA recommendations can be implemented for all EAS device models and at what costs, and whether the benefit of implementing the proposed changes exceed whatever costs might be incurred to implement them.

The FEMA recommendation to change the EAS originator code for ''Primary Entry Point System,'' from ''PEP,'' to ''NAT'' and to either modify the definition for the EAN event code from ''Emergency Action Notification (National Only),'' to ''Emergency Alert, National,'' or replace the EAN event code with a new event code called ''NEM'' would require EAS equipment manufacturers to develop software updates to implement the new code in deployed EAS equipment and EAS equipment in production. Such action also would require EAS Participants to acquire and install a software update to change the code in their EAS device. The Commission believes a software update imposes minimal costs for small and other entities, and the costs of such an action can be done in the normal course of business. The Commission is aware that some EAS device models in deployment might not be capable of being updated to reflect the new codes, and those devices would have to be replaced. As a possible alternative to a code change for EAN, the Commission asks, for example, whether retaining the EAN and revising its definition would be less costly than replacing it with a new code such as ''NEM'', or whether the revision of the EAN definition produce similar costs as a new code due to necessary technical and operational plan changes. The Commission also believes that should EAS event code changes be adopted, it may be possible to coordinate the implementation timeframe to allow a sufficient period of time for EAS Participants to complete the required installation in the normal course of the device's regularly scheduled maintenance and which would help minimize the cost of the software update.

The FEMA recommendation for the Commission to examine methods to update the EAS to ''support persistent display of alert information and/or persistent notification for emergencies that require immediate public protective actions to mitigate loss of life'' does not propose any particular methods or define the types of emergency events that would qualify and, therefore, the potential costs and burdens cannot be quantified. It is likely, however, that any action required to effectuate this recommendation would require extensive modifications to the EAS. Therefore, as an initial matter, the Commission seeks to identify what EAS event types would or would not qualify and what updates would be required to the EAS to accommodate the ''persistent display of alert information and/or persistent notification'' that FEMA requests. Further, within its recommendation FEMA proposes that alert originators can cancel an alert, however, there is no mechanism in the EAS to cancel a legacy EAS alert, and the Commission therefore seeks comment on whether a proposed rule to effectuate alert cancellation would necessarily require changing the EAS protocol or some other facet of the EAS architecture which could increase the costs for small and other impacted entities. The Commission expects that implementing FEMA's persistent alert changes would require significant modifications to EAS devices, downstream processing equipment, cable equipment standards, and other equipment operated in the EAS ecosystem, and asks for information on the technical feasibility of FEMA's request. In addition, the Commission seeks information on the costs that would be incurred and by whom, in implementing the proposed changes, on what, if any, ancillary costs would be associated with modifying downstream equipment, and whether the costs of implementing FEMA's proposal be would be outweighed by any benefit of keeping the alert available to the public.

In the alternative, the Commission asks commenters to consider whether there are less obtrusive means to achieve FEMA's proposal, such as

relying on alert originators to repeat (re-originate) alerts they deem significant enough to warrant such treatment. Significantly, the Commission raises as alternatives for comment whether FEMA's proposal on keeping the alert information or notification persistent is more appropriately configured in a next generation EAS, and whether FEMA's recommendation is more appropriately addressed in the Notice of Inquiry in this proceeding (seeking comment on internet related updates and improvements to the EAS).

Throughout the *FNPRM,* the Commission has raised and requested comment on various issues relating to the technical feasibility, costs, benefits and the potential impact of implementing FEMA's proposed EAS rule changes. This information will assist with the Commission's evaluation of the economic impact on small entities, and to determine if the proposed FEMA rule changes are adopted, how to minimize any significant economic for small entities and will help identify potential alternatives not already considered. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments and reply comments filed in response to the *FNPRM.* Moreover, the Commission's evaluation of the comments will shape the final alternatives it considers, the final conclusions it reaches, and the actions it ultimately takes in this proceeding to minimize any significant economic impact that may occur on small entities, if any of the proposed FEMA recommendations are adopted.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Ordering Clauses

Accordingly, *it is ordered,* pursuant to sections 1, 2, 4(i), 4(o), 301, 303(r), 303(v), 307, 309, 335, 403, 624(g), 706, and 713 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(o), 301, 303(r), 303(v), 307, 309, 335, 403, 544(g), and 606, as well as by sections 602(a), (b), (c), (f), 603, 604 and 606 of the WARN Act, 47 U.S.C. 1202(a), (b), (c), (f), 1203, 1204 and 1206, Section 202 of the Twenty-First Century Communications and Video Accessibility Act of 2010, as amended, 47 U.S.C. 613, and the National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388, section 9201, 47 U.S.C. 1201, 1206, that this Report and Order and Further Notice of Proposed Rulemaking in PS Docket Nos. 15–94 and 15–91 *is hereby adopted.*

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–15174 Filed 8–19–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. NHTSA–2021–0001]

RIN 2127–AM32

Civil Penalties

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On January 14, 2021, NHTSA published an interim final rule in response to a petition for rulemaking from the Alliance for Automotive Innovation (Alliance). The interim final rule provided that an inflation adjustment to the civil penalty rate applicable to automobile manufacturers that violate applicable corporate average fuel economy (CAFE) standards would apply beginning with vehicle Model Year 2022. The interim final rule also requested comment. In light of a subsequent Executive Order and the agency's review of comments, NHTSA is reviewing and reconsidering that interim final rule. Accordingly, NHTSA is issuing this supplemental notice of proposed rulemaking (SNPRM) to consider the appropriate path forward and to allow interested parties sufficient time to provide comments.

DATES: *Comments:* Comments must be received by September 20, 2021.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery or Courier:* U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m. Eastern time, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.
- *Instructions:* NHTSA has established a docket for this action. Direct your comments to Docket ID No. NHTSA–2021–0001. See the **SUPPLEMENTARY INFORMATION** section on ''Public Participation'' for more information about submitting written comments.
- *Docket:* All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the following location: Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The telephone number for the docket management facility is (202) 366–9324. The docket management facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Kuppersmith, Office of Chief Counsel, NHTSA, email *michael.kuppersmith@dot.gov,* telephone (202) 366–2992, facsimile (202) 366–3820, 1200 New Jersey Ave. SE, Washington, DC 20590.

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A. Public Participation

This section describes how you can participate in the commenting process.

(1) How do I prepare and submit comments?

Your comments must be written. To ensure that your comments are correctly filed in the docket, please include the docket number NHTSA–2021–0001 in your comments. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using the Optical Character Recognition (OCR) process, thus allowing NHTSA to search and copy certain portions of your submissions.[1] Please note that pursuant to the Data Quality Act, in order for the substantive data to be relied upon and used by NHTSA, it must meet the information quality standards set forth in the Office of Management and Budget (OMB) and Department of Transportation (DOT) Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *https://www.whitehouse.gov/omb/information-regulatory-affairs/information-policy/.* DOT's guidelines may be accessed at *https://www.transportation.gov/dot-information-dissemination-quality-guidelines.*

(2) Tips for Preparing Your Comments

When submitting comments, please remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified in the **DATES** section above.

(3) How can I be sure that my comments were received?

If you submit your comments by mail and wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail. If you submit information through email under a claim of confidentiality, as discussed below, you may request a delivery receipt.

(4) How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit your complete submission, including the information you claim to be confidential business information (CBI), to the NHTSA Chief Counsel. When you send a comment containing CBI, you should include a cover letter setting forth the information specified in our CBI regulation.[2] In addition, you should submit a copy from which you have deleted the claimed CBI to the docket by one of the methods set forth above.

To facilitate social distancing due to COVID–19, NHTSA is treating electronic submission as an acceptable method for submitting CBI to NHTSA under 49 CFR part 512. Any CBI submissions sent via email should be sent to an attorney in the Office of Chief Counsel at the address given above under **FOR FURTHER INFORMATION CONTACT**. Likewise, for CBI submissions via a secure file transfer application, an attorney in the Office of Chief Counsel must be set to receive a notification when files are submitted and have access to retrieve the submitted files. At this time, regulated entities should not send a duplicate hardcopy of their electronic CBI submissions to DOT headquarters.

Please note that these modified submission procedures are only to facilitate continued operations while maintaining appropriate social distancing due to COVID–19. Regular procedures for Part 512 submissions will resume upon further notice, when NHTSA and regulated entities discontinue operating primarily in telework status.

If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

(5) How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (*e.g.,* the comments submitted in response to this document by other interested persons) at any time by going to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets. You may also read the materials at the NHTSA Docket Management Facility by going to the street addresses given above under **ADDRESSES**.

B. CAFE Statutory and Regulatory Background

NHTSA sets[3] and enforces[4] corporate average fuel economy (CAFE) standards for the United States light-duty automobile fleet, and in doing so, assesses civil penalties against manufacturers that violate applicable standards and are unable to make up the shortfall with credits.[5] The civil penalty amount for CAFE violations was originally set by statute in 1975, and beginning in 1997, included a rate of $5.50 per each tenth of a mile per gallon (0.1) that a manufacturer's CAFE performance falls short of its compliance obligation. This shortfall amount is then multiplied by the number of vehicles in that manufacturer's fleet.[6] The basic equation for calculating a manufacturer's civil penalty amount, before accounting for credits, is as follows:

(penalty rate, in $ per 0.1 mpg per vehicle) × (amount of shortfall, in

[1] OCR is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

[2] *See* 49 CFR part 512.

[3] 49 U.S.C. 32902. The authorities vested in the Secretary under chapter 329 of Title 49, U.S.C., have been delegated to NHTSA. 49 CFR 1.95(a).

[4] 49 U.S.C. 32911, 32912.

[5] Within statutory constraints, credits may be either *earned* (for over-compliance by a given manufacturer's fleet, in a given model year), *transferred* (from one fleet to another), or *purchased* (in which case, another manufacturer earned the credits by over-complying and chose to sell that surplus). 49 U.S.C. 32903.

[6] A manufacturer may have up to three fleets of vehicles, for CAFE compliance purposes, in any given model year—a domestic passenger car fleet, an imported passenger car fleet, and a light truck fleet. Each fleet belonging to each manufacturer has its own compliance obligation, with the potential for either over-compliance or under-compliance. There is no overarching CAFE requirement for a manufacturer's total production.

tenths of an mpg) × (# of vehicles in manufacturer's fleet).[7]

Starting with Model Year 2011, the Energy Independence and Security Act of 2007 (EISA) provided for credit transfers among a manufacturer's various fleets.[8] Starting with that model year, the law also provided for trading between vehicle manufacturers, which has allowed vehicle manufacturers the opportunity to acquire credits from competitors rather than paying civil penalties for violations. Manufacturers can choose to carry back credits to apply to any of three model years before they are earned or carry them forward to apply to any of the five model years after they are earned.

In complement to NHTSA's regulation of fuel economy, the Environmental Protection Agency (EPA) regulates the emissions of light-duty vehicles. These regulations include standards to regulate greenhouse gas emissions from the light-duty fleet. The Clean Air Act requires EPA to set greenhouse gas (GHG) emissions standards from light-duty vehicles since EPA has made an ''endangerment finding'' that greenhouse gases ''cause[s] or contribute[s] to air pollution which may reasonably be anticipated to endanger public health or welfare.'' [9] Although NHTSA and EPA have different roles and independent enforcement and compliance obligations, and operate under different statutory authority, the agencies work together to achieve the goals of their respective statutes. Since Model Year 2012, the agencies have issued joint rulemakings regulating fuel economy (NHTSA) and GHGs (EPA) from light-duty vehicles that have different requirements but are harmonized to the extent possible to work in tandem. The CAFE program is subject to various statutory requirements not applicable to the EPA GHG program. One such requirement, for example, requires automakers to meet a separate average fleet requirement for automobiles that are manufactured domestically.[10] The Clean Air Act does not include a similar requirement for EPA's GHG standards.

C. Civil Penalties Inflation Adjustment Act Improvements Act of 2015

On November 2, 2015, the Federal Civil Penalties Inflation Adjustment Act Improvements Act (Inflation Adjustment Act or 2015 Act), Public Law 114–74, Section 701, was signed into law. The 2015 Act required Federal agencies to promulgate an interim final rule to make an initial ''catch-up'' adjustment to the civil monetary penalties they administer, and then to make subsequent annual adjustments for inflation. The 2015 Act limited the initial inflation increase to 150 percent of the then-current penalty.

In a February 24, 2016 memorandum, the Director of the Office of Management and Budget (OMB) provided initial guidance to all Federal agencies on how to calculate the initial adjustment required by the 2015 Act.[11] The initial ''catch-up'' adjustment was based on the change between the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October in the year the penalty amount was established or last adjusted by Congress and the October 2015 CPI–U. The February 24, 2016 memorandum contained a table with a multiplier for the change in CPI–U from the year the penalty was established or last adjusted to 2015. To arrive at the adjusted penalty, the agency multiplied the penalty amount when it was established or last adjusted by Congress, excluding adjustments under the 1990 Inflation Adjustment Act, by the multiplier for the increase in CPI–U from the year the penalty was established or adjusted. Ensuing guidance from OMB identifies the appropriate inflation multiplier for agencies to use to calculate the subsequent annual adjustments.[12]

D. NHTSA's Actions to Date Regarding CAFE Civil Penalties

1. Initial Interim Final Rule

On July 5, 2016, NHTSA published an interim final rule, adopting inflation adjustments for all civil penalties under its administration, following the procedure and the formula in the 2015 Act. One of the adjustments NHTSA made at the time was raising the civil penalty rate for CAFE violations from $5.50 to $14.[13] NHTSA also indicated in that notice that the maximum penalty rate that the Secretary is permitted to establish for such violations would similarly increase to reflect inflation from the statutory cap of $10 to $25, but did not codify this change in the regulatory text. That initial interim final rule became effective on August 4, 2016.

2. Initial Petition for Reconsideration and Response

On August 1, 2016, the then-Alliance of Automobile Manufacturers and the Association of Global Automakers (since combined to form the Alliance for Automotive Innovation) jointly petitioned NHTSA for reconsideration of the CAFE penalty provisions issued in the interim final rule.[14] This petition raised concerns with the impact that the increased penalty rate would have on CAFE compliance costs, which they estimated to be at least $1 billion annually. Specifically, this petition identified several issues, including retroactivity. The petitioners were concerned that applying the penalty increase associated with model years that had already been completed or for which a company's compliance plan had already been ''set'' was a retroactive application of the inflation adjustment.

In response to the joint petition, NHTSA issued a final rule on December

[7] The process of determining civil penalties occurs after the end of a model year, following NHTSA's receipt of final reports from the Environmental Protection Agency (EPA). See 77 FR 62624, 63126 (Oct. 15, 2012).

[8] Public Law 110–140, 104.

[9] 42 U.S.C. 7521, *see also* 74 FR 66495 (Dec. 15, 2009) (''Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act'').

[10] 49 U.S.C. 32902(b)(4).

[11] Memorandum from the Director of OMB to Heads of Executive Departments and Agencies, Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Feb. 24, 2016), available online at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2016/m-16-06.pdf.*

[12] Memorandum from the Director of OMB to Heads of Executive Departments and Agencies, Implementation of the 2017 Annual Adjustment Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 16, 2016), available online at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/m-17-11_0.pdf;* Memorandum from the Director of OMB to Heads of Executive Departments and Agencies, Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2017), available online at *https://www.whitehouse.gov/wp-content/uploads/2017/11/M-18-03.pdf;* Memorandum from the Director of OMB to Heads of Executive Departments and Agencies, Implementation of Penalty Inflation Adjustments for 2019, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 14, 2018), available online at *https://www.whitehouse.gov/wp-content/uploads/2017/11/m_19_04.pdf;* Memorandum from the Acting Director of OMB to Heads of Executive Departments and Agencies, Implementation of Penalty Inflation Adjustments for 2020, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 16, 2019), available online at *https://www.whitehouse.gov/wp-content/uploads/2019/12/M-20-05.pdf;* Memorandum from the Director of OMB to Heads of Executive Departments and Agencies, Implementation of Penalty Inflation Adjustments for 2021, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 23, 2020), available online at *https://www.whitehouse.gov/wp-content/uploads/2020/12/M-21-10.pdf.*

[13] 81 FR 43524 (July 5, 2016).

[14] Jaguar Land Rover North America, LLC also filed a petition for reconsideration in response to the July 5, 2016 interim final rule raising the same concerns as those raised in the joint petition. Both petitions, along with a supplement to the joint petition, can be found in Docket No. NHTSA–2016–0075 at *www.regulations.gov.*

28, 2016.[15] In that rule, NHTSA agreed that raising the penalty rate for model years already fully complete at the time the 2015 Act was enacted would be inappropriate, given that courts generally disfavor the retroactive application of statutes, and that applying penalties to model years that were already completed could not deter non-compliance, incentivize compliance, or lead to any improvements in fuel economy. NHTSA also agreed that raising the rate for model years for which product changes were infeasible due to lack of lead time from the enactment of the 2015 Act did not seem consistent with Congress' intent that the CAFE program be responsive to consumer demand. Accordingly, NHTSA stated that it would not apply the inflation-adjusted penalty rate of $14 (plus any adjustments for inflation that occurred or may occur) until Model Year 2019, as the agency believed that 2019 would be the first year after the 2015 Act in which product changes could reasonably be made in response to the higher penalty rate. This final rule had an effective date of January 27, 2017.

3. NHTSA Reconsideration

Beginning in January 2017, NHTSA took a series of actions to delay the effective date of the December 2016 final rule, ultimately leading to a rule announcing that the effective date would be delayed indefinitely.[16] In April 2018, the United States Court of Appeals for the Second Circuit vacated NHTSA's indefinite delay of the rule's effective date, clarifying that the December 2016 rule was in force.[17]

In July 2019, NHTSA finalized a rule determining that the 2015 Act did not apply to the CAFE civil penalty rate. On August 31, 2020, the United States Court of Appeals for the Second Circuit vacated the July 2019 rule and ruled that the December 2016 rule was back in force. The Second Circuit denied panel rehearing on November 2, 2020.

4. Subsequent Petitions and Interim Final Rule

On September 9, 2019, the Institute for Policy Integrity at New York University School of Law (IPI) submitted a petition for reconsideration of NHTSA's July 2019 final rule. IPI argued that the rule was unreasonable and not in the public interest because it did not properly account for the associated costs and benefits. Additionally, IPI challenged NHTSA's statutory interpretations. NHTSA did not issue a decision on the petition prior to the Second Circuit's decision vacating the rule.

Following the Second Circuit's decision, on October 2, 2020, NHTSA received a petition for rulemaking from the Alliance for Automotive Innovation requesting that the adjustment to $14 not be applied until Model Year 2022.[18] According to the Alliance Petition, ''Model Years 2019 and 2020 are effectively lapsed now,'' and ''[m]anufacturers are unable to change MY 2021 plans at this point.'' The Alliance argued that, as in the December 2016 rule, applying the increased penalty to any violations that are temporally impossible to avoid or cannot practically be remedied does not serve the statutory purposes of deterring prohibited conduct or incentivizing favored conduct. According to the Alliance, doing so would effectively be punishing violators retroactively.

In addition to relying on the reasoning of the December 2016 rule as it applied to the increase based on the timing of the enactment of the 2015 Act, the Alliance Petition noted, but did not provide detailed evidence of, the significant economic impact suffered by the industry due to COVID–19. Accordingly, the Alliance Petition also cited the now-revoked Executive Order 13924,[19] requiring Federal agencies to take appropriate action, consistent with applicable law, to combat the economic emergency caused by COVID–19. Several individual vehicle manufacturers submitted supplemental information to NHTSA further articulating the negative economic position they were in due to the COVID–19 public health emergency and the potential and significant adverse economic consequences of the increased civil penalty rate.

After considering the issues raised, NHTSA granted the Alliance's petition and promulgated an interim final rule providing that the increase[20] will apply beginning with Model Year 2022. The interim final rule contended that applying the increased civil penalty rate to vehicles in Model Years 2019, 2020, and 2021 would not result in additional fuel savings and would impose higher penalties retroactively because those model years were already completed, or, for Model Year 2021, production plans were set prior to the Second Circuit's decision striking down the 2019 rule. The interim final rule relied in large part on the reasoning in the December 2016 final rule, though it did not discuss the extent to which the four years between the two rules should affect that reasoning. Additionally, the interim final rule attempted to account for the negative economic impact on the automotive sector caused by the global outbreak of COVID–19.[21] That interim final rule amended the relevant regulatory text accordingly—effective immediately and without having afforded prior notice or the ability to comment in advance—and requested comment within ten days. The interim final rule also noted that IPI's petition was moot, and, to the extent it was not moot, NHTSA denied it.

The interim final rule is currently the subject of legal challenges in the Second Circuit and Ninth Circuit.[22]

E. Summary of Comments Received

Before NHTSA's interim final rule was published but after the agency had announced, through the publication of the Fall 2020 Unified Agenda of Regulatory and Deregulatory Actions, that it had initiated a rulemaking in response to the Alliance's petition, NHTSA received two letters regarding the rulemaking: one jointly from the State of New York, the Natural Resources Defense Council, and the Sierra Club, and one from Tesla.[23] These letters raised concerns with NHTSA's rulemaking, particularly with the entities' inability to comment on the Alliance's petition for rulemaking in advance. NHTSA did not respond to these letters prior to the publication of the interim final rule, but included both letters in the docket when the interim final rule was published and noted that they ''will be treated as comments for appropriate consideration.''[24]

After the interim final rule was published, NHTSA received eight substantive comments.[25] NHTSA received comments from:

[15] 81 FR 95489 (December 28, 2016).

[16] 82 FR 8694 (January 30, 2017); 82 FR 15302 (March 28, 2017); 82 FR 29009 (June 27, 2017); 82 FR 32139 (July 12, 2017).

[17] Order, ECF No. 196, *NRDC* v. *NHTSA,* Case No. 17–2780 (2d Cir., Apr. 24, 2018); Opinion, ECF No. 205, *NRDC* v. *NHTSA,* Case No. 17–2780, at 44 (2d Cir., June 29, 2018) (''The Civil Penalties Rule, 81 FR 95,489, 95,489–92 (December 28, 2016), no longer suspended, is now in force.'').

[18] The Alliance also submitted a supplement to its petition on October 22, 2020 (Alliance Supplement).

[19] *See* Executive Order 14018, 86 FR 11855, ''Revocation of Certain Presidential Actions'' (Feb. 24, 2021).

[20] The rate is increasing to $14, plus any adjustments for inflation that occurred or may occur. 49 CFR 578.6(h)(2).

[21] The reasoning for the interim final rule is set forth more fully in the January 14, 2021 notice published at 86 FR 3016.

[22] *NRDC* v. *NHTSA,* No. 21–139 (2d Cir.); *New York* v. *NHTSA,* No. 21–339 (2d Cir.); *Tesla* v. *NHTSA,* No. 21–70367 (9th Cir.).

[23] NHTSA–2021–0001–0001; NHTSA–2021–0001–0009.

[24] 86 FR 3016, 3023 n.74 (Jan. 14, 2021).

[25] NHTSA received a ninth comment that simply said, ''Help.'' NHTSA–2021–0001–0018. Without

• The Attorneys General of California, New York, Connecticut, Delaware, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Jersey, Oregon, Pennsylvania, Rhode Island, Washington, and Vermont; [26]

• American Council for an Energy-Efficient Economy, Center for Auto Safety, Center for Biological Diversity, Consumer Federation of America, Consumer Reports, The Ecology Center (Michigan), Environmental Law and Policy Center, Interfaith Power & Light, Sierra Club, Union of Concerned Scientists; [27]

• Natural Resources Defense Council and Sierra Club; [28]

• The Institute for Policy Integrity at New York University School of Law; [29]

• Tesla; [30]

• The Alliance for Automotive Innovation; [31]

• The National Automobile Dealers Association (NADA); [32] and

• An anonymous individual.[33]

Most of the comments opposed the interim final rule, raising serious procedural, legal, and substantive concerns. In general, these comments argued that NHTSA did not have the authority to delay the application of the inflation increase beyond Model Year 2019 and that, regardless, NHTSA would have to do so through notice-and-comment, not by an interim final rule that was effective immediately without prior notice and without the opportunity to comment in advance. In supporting these arguments, the commenters relied, in part, upon the two earlier decisions by the Second Circuit.

Most of these comments also challenged the interim final rule as arbitrary and capricious on multiple grounds. For example, the comments discussed that applying the increased rate before Model Year 2022 would not be retroactive because the increased rate was originally applied in 2016 when it was still prospective, and NHTSA's subsequent actions, which were all stricken down by the Second Circuit, did not change that fact. In these commenters' view, manufacturers have been on notice of the increase well before Model Year 2019, and any reliance to the contrary was undue. These comments argued that this was particularly true given the rulings from the Second Circuit litigation, in which many of these commenters and the Alliance were involved, with the Alliance being an intervening party. The comments further argued that delaying the application of the increased rate would affect future compliance because manufacturers may be incentivized to hold credits for model years when the higher rate will apply. The comments also argued that the interim final rule improperly analyzed the economic effects of the COVID–19 pandemic, for example, by not accounting for any positive economic data and disregarding that some of the relevant conduct occurred before the pandemic.

These comments also argued that the interim final rule violated the National Environmental Policy Act of 1969 (NEPA). Lastly, in response to NHTSA's request for comment about whether the adjustment should be delayed further until Model Year 2023, these comments opposed any additional delay. Some of these comments also expressed concern with the short ten-day comment period provided by the interim final rule—and only after the rule was already effective without any opportunity to comment beforehand.

Two comments supported the interim final rule. The Alliance reiterated the reasoning set forth in its petition, which NHTSA granted in the interim final rule. According to the Alliance, the interim final rule was consistent with NHTSA's December 2016 rule; appropriately accounted for the industry's production and design processes, including the unforeseen challenges of the COVID–19 public health emergency; and fairly implemented the Second Circuit's decision. The Alliance also noted that Model Year 2022 vehicles could have begun being produced as early as January 2, 2021—about two weeks before the interim final rule was published—but it believes NHTSA was reasonable to make the inflation adjustment applicable beginning in Model Year 2022, declining to request a further delay in the adjustment to Model Year 2023. NADA supported the Alliance's comment, adding that increased CAFE civil penalties before Model Year 2022 would lead to higher vehicle prices for consumers or manufacturer shifts in available offerings, without any associated environmental or safety benefits.

F. Supplemental Request for Public Comment

On January 20, 2021, the President issued Executive Order 13990, entitled ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.'' E.O. 13990 directs the heads of all agencies to immediately review all existing regulations, orders, guidance documents, policies, and any other similar agency actions promulgated, issued, or adopted between January 20, 2017 and January 20, 2021, that are or may be inconsistent with, or present obstacles to, the policy set forth in E.O. 13990: A policy ''to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water; to limit exposure to dangerous chemicals and pesticides; to hold polluters accountable, including those who disproportionately harm communities of color and low-income communities; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; to restore and expand our national treasures and monuments; and to prioritize both environmental justice and the creation of the well-paying union jobs necessary to deliver on these goals.'' [34] The Secretary of Transportation expressly identified the January 14, 2021 CAFE civil penalties interim final rule as one to be reviewed pursuant to E.O. 13990.[35]

In accord with E.O. 13990 and the Secretary's determination, and in light of the significant concerns raised by the commenters, NHTSA is reviewing and reconsidering the January 14, 2021 interim final rule. Specifically, NHTSA is considering withdrawing the interim final rule and reverting to the December 2016 final rule that would apply the inflation adjustment beginning with Model Year 2019—the rule that the Second Circuit has said twice is ''now in force.'' [36] The vast majority of comments submitted to date support returning to the December 2016 final rule. Upon further consideration, automakers were aware as of December 2016 that the inflation adjustment would apply beginning with Model Year 2019. It was not until Model Year 2019 was already nearly complete that the agency issued a final rule changing that, which the Second Circuit subsequently determined was legally invalid. The Alliance participated in that litigation as

any additional information, NHTSA cannot reasonably address or respond to this commenter's concern.

[26] NHTSA–2021–0001–0017.

[27] NHTSA–2021–0001–0015.

[28] NHTSA–2021–0001–0013.

[29] NHTSA–2021–0001–0011.

[30] NHTSA–2021–0001–0012.

[31] NHTSA–2021–0001–0014.

[32] NHTSA–2021–0001–0016.

[33] NHTSA–2021–0001–0019.

[34] 86 FR 7037, 7037 (Jan. 25, 2021).

[35] Memorandum from the Acting General Counsel of DOT to the Chief Counsel and Acting Deputy Administrator of NHTSA and Special Advisor, ''Implementation of Executive Order 13990, entitled 'Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis' '' (Feb. 22, 2021). *https://www.transportation.gov/sites/dot.gov/files/2021-02/Memo-to-NHTSA.pdf.*

[36] *Nat. Res. Def. Council* v. *Nat'l Highway Traffic Safety Admin.,* 894 F.3d 95, 116 (2d Cir. 2018); *New York* v. *Nat'l Highway Traffic Safety Admin.,* 974 F.3d 87, 101 (2d Cir. 2020).

an intervenor and was well aware of the possibility that the Second Circuit would restore the applicability of the inflation increase beginning with Model Year 2019. In fact, the Second Circuit did just that. NHTSA is therefore of the view that it would be appropriate to revisit the characterization of the application of the inflation adjustment beginning with Model Year 2019 as ''retroactive.'' Moreover, commenters have raised valid concerns regarding the procedures that the agency used in issuing the interim final rule, which did not proceed through a more typical notice-and-comment process and made the rule effective immediately upon publication. In addition, based upon further review and consideration of the Second Circuit's prior decisions and, in light of the ongoing litigation, the agency is assessing the legal risk of leaving the interim final rule in place, as the interim final rule was based on an assertion of discretion that NHTSA now tentatively believes is in conflict with the Inflation Adjustment Act and the Second Circuit's decisions.

For these reasons, the agency is now considering withdrawing the interim final rule and reverting to the December 2016 final rule.

That said, the agency has not yet reached any final determinations, and instead believes that an additional period of public comment would aid the agency in its reexamination of the issues involved in the interim final rule. Considering the importance of this rulemaking and the short comment period—ten days—previously provided to interested parties, NHTSA is issuing this notice to provide the public with an appropriate amount of time to comment and to enable NHTSA to more fully review and consider the issues. In doing so, NHTSA is expressly requesting comment on whether it should proceed to a final rule that withdraws the interim final rule and reverts to the December 2016 final rule, restoring the application of the increased CAFE civil penalty rate beginning with Model Year 2019. NHTSA will also accept comments on whether the inflation adjustment should apply beginning with a model year later than Model Year 2019. Commenters arguing for such a position should explain how it is consistent with the 2015 Act and the Second Circuit's decisions. NHTSA will also consider comments already submitted in response to the interim final rule as part of its ongoing review and the anticipated promulgation of a final rule following this comment period.

G. Rulemaking Analyses and Notices

1. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking document has been considered a ''significant regulatory action'' under Executive Order 12866. NHTSA believes that this rulemaking will be ''economically significant,'' as NHTSA believes that the difference in the amount of penalties received by the government as a result of this rule are likely to exceed $100 million in at least one of the years affected by this rulemaking and that there may be some further economic effects as discussed below.

As a general matter, the civil penalty rate as adjusted for inflation will likely induce some degree of greater compliance. Manufacturers that are paying civil penalties for CAFE violations have likely calculated that it is less costly or otherwise preferable to pay the penalties than to meet the statutory and regulatory requirements. An increased penalty rate changes this calculation, as it likely raises either the costs of credits a noncompliant manufacturer may choose to purchase, the total penalty amount a manufacturer will pay, or both. However, the Second Circuit has made clear that the Inflation Adjustment Act applies to these penalties and, thus, the question over whether these penalties should be adjusted for inflation has been settled.

In this rule, NHTSA is proposing to remove the interim final rule, which delayed the inflation adjusted penalty rate by three model years, two of which are already complete and the last one which is considerably underway. An analysis here would be limited to estimating over this short time horizon: (1) Which manufacturers did not produce compliant fleets for Model Years 2019 and 2020 and are likely to not produce compliant fleets for Model Year 2021; (2) what the shortfalls will be for those non-compliant manufacturers; and (3) the extent to which those manufactures will choose to use credits (either their own or those purchased from over-compliant manufacturers) or pay penalties to address these shortfalls. Pointedly, this analysis does not have sufficient information to account for whether, and if so, how manufacturers will adjust the composition of the fleet for these model years in response to the penalty change.

Any analysis would estimate what the compliance shortfalls will be and whether manufacturers will pay penalties or use credits. These estimates could be used to estimate the effects on individual manufactures in the form of higher penalty payments, higher payments to other manufacturers for credits, or higher receipts for overcomplying manufacturers for credits sold to other manufacturers. However, NHTSA has only limited ability to estimate what strategies manufacturers will take either to use credits or pay penalties to deal with any noncompliance, as that is a decision that each manufacturer must take based on their unique circumstances. In the past, the vast majority of manufacturers pay no penalties, as only five manufacturers have paid civil penalties since Model Year 2011.[37] And only one of those manufacturers faced particularly heavy penalties—even before the $14 rate would have gone into effect—for failing to comply with the minimum domestic passenger car standard, which cannot be made up through the application of transferred or traded credits.[38]

Despite this uncertainty, NHTSA is confident that, based on the experience of recent model years, this rule would lead to at least $100 million difference in the amount of penalties in at least one model year. For example, based on mid-model year fuel economy performance data, NHTSA projected a shortfall of 1.3 miles per gallon across the U.S. fleet in Model Year 2019.[39] Assuming a similar magnitude of production from Model Year 2018 for Model Year 2019 would result in a nationwide fleet-wide net shortfall of approximately $115.4 million at the $5.50 rate or an approximately $293.9 million shortfall at the $14 rate—an approximately $178.5 million difference.[40] As noted, it is expected

[37] *See* ''Civil Penalties,'' available at *https://one.nhtsa.gov/cafe_pic/CAFE_PIC_Fines_LIVE.html.*

[38] 49 U.S.C. 32903(f)(2), (g)(4); 49 CFR 536.9(c).

[39] *See* ''MYs 2018 and 2019 Projected Fuel Economy Performance Report,'' available at *https://one.nhtsa.gov/cafe_pic/AdditionalInfo.htm.* This projection is based on information received from manufacturers' mid-model year reports required by 49 CFR part 537. The data from these reports has not been verified by EPA or NHTSA. NHTSA assesses manufacturers' compliance only using EPA-verified final model year data. The final model year data may differ from the mid-model year projections due to the mixture of vehicles actually produced throughout the model year.

[40] In looking at the total fleet performance across the country, manufacturers who over-complied with the standard may benefit from an expected increase in the value of credits as a result of an inflation increase in the penalty rate, while those that have made a business decision not to comply with the standards would likely have to pay more

that much of this increase would likely fall on a single automobile manufacturer and likely due to a failure to comply with the minimum domestic passenger car standard. NHTSA does not yet have enough information for Model Year 2020, which is now complete, or Model Year 2021, which is still underway, to make a similar estimate, but requests comment, data, or analysis on the potential compliance shortfalls, penalty payments, and effect on credit sales for those model years.

In addition, NHTSA believes that commenters have raised valid questions about further economic effects. These commenters have argued that, regardless of the impact of this rulemaking action on Model Year 2019 through 2021 vehicles, longer-term impacts may vary as a result of manufacturer multi-year planning, the transfer of credits across model years and between manufacturers, and the changing value of credits over time. According to these commenters, if such variation were to occur, applying the $14 penalty rate beginning in Model Year 2019 may result in manufacturers applying credit balances to Model Year 2019 through 2021 vehicles and being incentivized to make fuel economy improvements in their fleet beyond that timeframe. And for manufacturers that do not currently have credits or cannot transfer or trade for them to make up a shortfall of the minimum domestic passenger car standard, applying the inflation adjusted penalty rate beginning in Model Year 2019 places an even greater incentive on future compliance and fuel economy improvements to avoid additional higher penalties going forward.

A brief explanation of the statutory scheme that governs the use of credits is helpful in understanding how this could work. Manufacturers comply separately with the domestic passenger car, imported passenger car, and light truck standards. Thus, a manufacturer can comply (or over comply) with all standards, comply with some but not all standards, or fail to comply with all standards. To the extent that a manufacturer over-complies with the standard for a particular fleet, the manufacturer generates a credit for that over-compliance, which the manufacturer can hold-on to for future compliance for that standard, ''transfer'' from one fleet (*e.g.,* light trucks) to its other fleet (*e.g.,* imported passenger cars), or trade those credits to another manufacturer. Those manufacturers can either ''bank'' those credits for their own future use or sell them to non-compliant manufacturers, who seek the credit to make up for a shortfall. These earned credits can be ''carried forward'' to apply to any of the five model years after they are earned. Manufacturers can also choose to ''carry back'' credits to apply to any of three model years before they are earned. However, there are certain limitations on the use of credits, as manufacturers may not transfer more than 2.0 miles per gallon in credits from one of their fleets to another in a single model year and neither transferred nor traded credits may be used to meet the minimum domestic passenger car standard.

Consistent with these constraints, if the rate for civil penalties instead remained at the $5.50 rate for Model Years 2019 through 2021, some manufacturers might choose to pay the lower penalty earlier and save the credits that could either carry forward or carry back for future model years when they are valued more due to the inflation adjustment. For example, a credit earned in Model Year 2017 could be used for any year up to Model Year 2022, and, thus, if the adjusted rate applied in Model Year 2019, they may use that credit at that point, while they may have saved that credit for Model Year 2022 under the delay provided in the interim final rule. Likewise, credits earned in Model Years 2019 through 2021 may be used through Model Years 2024 and 2026, respectively. Thus, if the penalty rate remained $5.50 until Model Year 2022, a manufacturer with shortfalls in one fleet in Model Years 2019 through 2021 may choose to pay penalties and hold on to any transferred or traded credits until the years in which the penalty rate has been adjusted for inflation, rather than using the credits earlier and making design changes to increase its compliance in the later model years. Likewise, a manufacturer who has a shortfall in its domestic passenger fleet might take actions to over-comply with the standard in future years when the penalty is increased to generate credits to apply to earlier years rather than paying the higher penalty.[41] Finally, credits earned in Model Year 2022, which is not yet underway, could be applied back to Model Year 2019 shortfalls, which have not been assessed yet, which a manufacturer may be more likely to do if the penalty rate for Model Year 2019 is the rate as adjusted for inflation. The agency has tentatively determined that these actions are possible and, thus, may mean that the argument put forward in the interim final rule that no effects beyond increased penalty payments are possible may be incorrect. NHTSA requests further comments on such potential effects, particularly as industry commenters did not provide detail as to whether and the extent to which any such potential variations are actually likely to occur.

In any event, based on further consideration of the 2015 Act and the Second Circuit's decisions on this issue, NHTSA tentatively believes that that it does not have discretion over when the inflation adjustment should begin to take effect. Further, the Inflation Adjustment Act provided NHTSA no discretion over what the adjusted rate should be, as that is merely a function of the formula established by Congress and calculated by OMB, and mandated streamlined processes for making both the initial adjustment and any subsequent adjustments that do not require accompanying analyses or public comment.[42]

2. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of an agency certifies the proposal will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the impacts of this document under the Regulatory Flexibility Act and certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. The following provides the factual basis for this certification under 5 U.S.C. 605(b).

for those credits. To the extent that a manufacturer cannot meet their shortfall with these credits or, in the case of the minimum domestic passenger car standard, are prohibited from doing so by law, they would need to pay penalties.

[41] Although manufacturers' design cycles vary, since they have been on notice since 2016 of an increase to the penalty beginning with Model Year 2019, they have had and will continue to have opportunities in the coming model years to make design choices to increase compliance.

[42] The 2015 Act, of course, did allow NHTSA one opportunity at the time of the initial catch-up to use the notice-and-comment process to adjust the rate ''less than the otherwise required amount'' under two conditions, but the Second Circuit rejected NHTSA's belated attempt to use this provision in its decision on the July 2019 final rule. *See New York,* 974 F.3d at 100–01.

The Small Business Administration's (SBA) regulations define a small business in part as a ''business entity organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.'' 13 CFR 121.105(a). SBA's size standards were previously organized according to Standard Industrial Classification (''SIC'') Codes. SIC Code 336211 ''Motor Vehicle Body Manufacturing'' applied a small business size standard of 1,000 employees or fewer. SBA now uses size standards based on the North American Industry Classification System (''NAICS''), Subsector 336—Transportation Equipment Manufacturing. This action is expected to affect manufacturers of motor vehicles. Specifically, this action affects manufacturers from NAICS codes 336111—Automobile Manufacturing, and 336112—Light Truck and Utility Vehicle Manufacturing, which both have a small business size standard threshold of 1,500 employees.

Though civil penalties collected under 49 CFR 578.6(h)(1) and (2) apply to some small manufacturers, low-volume manufacturers can petition for an exemption from the Corporate Average Fuel Economy standards under 49 CFR part 525. This would lessen the impacts of this rulemaking on small business by allowing them to avoid liability for penalties under 49 CFR 578.6(h)(2). Small organizations and governmental jurisdictions will not be significantly affected, as the price of motor vehicles and equipment ought not change as the result of this rule.

In the interim final rule, NHTSA stated that it did not believe that the rule would have a significant economic impact on a substantial number of small entities and requested comment on the issue. None of the comments NHTSA received discussed this issue.

3. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the [N]ational [G]overnment and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation.

As noted previously, this rulemaking will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The reason is that this rulemaking is expected to generally apply to motor vehicle manufacturers. Thus, the requirements of Section 6 of the Executive Order do not apply.

4. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, requires agencies to prepare a written assessment of the cost, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rulemaking is not expected to include a Federal mandate, no unfunded mandate assessment will be prepared.

5. National Environmental Policy Act

The National Environmental Policy Act of 1969 (NEPA) [43] directs that Federal agencies proposing ''major Federal actions significantly affecting the quality of the human environment'' must, ''to the fullest extent possible,'' prepare ''a detailed statement'' on the environmental impacts of the proposed action (including alternatives to the proposed action).[44] However, there are some instances where NEPA does not apply to a particular proposed One consideration is whether the action at issue is a non-discretionary action to which NEPA may not apply or for which NEPA may require less detailed analysis.[45] Under the 2015 Act, and as confirmed by the Second Circuit, NHTSA has no discretion in whether to adjust the CAFE civil penalty rate to $14, and NHTSA tentatively believes it has no discretion in when to do so. Further, the 2015 Act provides no basis for the consideration of environmental effects in making the required inflation adjustments, outside of an exception not applicable here.[46] Accordingly, in line with legal precedent concerning non-discretionary agency action, NHTSA believes that no further analysis pursuant to NEPA is required regarding increasing the CAFE civil penalty rate for inflation.

Although NHTSA does not have discretion on whether to increase the CAFE civil penalty rate for inflation, NHTSA has prepared this environmental assessment to evaluate the effects of the timing of such an increase on the environment. When a Federal agency prepares an environmental assessment, the CEQ NEPA implementing regulations require the agency to (1) ''[b]riefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact,'' and (2) ''[b]riefly discuss the purpose and need for the proposed action, alternatives . . . , and the environmental impacts of the proposed action and alternatives, and include a listing of [a]gencies and persons consulted.'' [47] Generally, based on the environmental assessment, the agency must make a determination to prepare an environmental impact statement or ''prepare a finding of no significant impact if the [a]gency determines, based on the environmental assessment, not to prepare an environmental impact statement because the proposed action will not have significant effects.'' [48]

The interim final rule included an Environmental Assessment (EA) and a Finding of No Significant Impact

[43] 42 U.S.C. 4321–4347.

[44] 42 U.S.C. 4332.

[45] *See Dept. of Transp.* v. *Public Citizen,* 541 U.S. 752, 768–69 (2014) (holding that the agency need not prepare an Environmental Impact Statement (EIS) or analyze certain environmental effects in its EA, and stating, ''[s]ince FMCSA has no ability categorically to prevent the cross-border operations of Mexican motor carriers, the environmental impact of the cross-border operations would have no effect on FMCSA's decisionmaking—FMCSA simply lacks the power to act on whatever information might be contained in the EIS.'').

[46] 28 U.S.C. 2461 note, 4(c) (allowing an agency to make the first adjustment of the amount of a civil monetary penalty by less than the otherwise required amount if increasing the civil monetary penalty by the otherwise required amount would have a negative economic impact; or the social costs of increasing the civil monetary penalty by the otherwise required amount outweighed the benefits). NHTSA's attempt to apply this exception through the ''negative economic impact'' prong was vacated by the Second Circuit as too late, and the statute provides that the exception could only be applied to the initial ''catch-up'' adjustment.

[47] 40 CFR 1501.5(c).

[48] 40 CFR 1501.6(a).

(FONSI) regarding the agency's decision to increase the CAFE civil penalty rate for inflation beginning with Model Year 2022. However, it sought comment on the environmental impacts of a longer delay to Model Year 2023. Two commenters alleged that the interim final rule violated NEPA because the agency did not consider the effect of CAFE penalties assessed in one year on manufacturers' compliance decisions in future years.[49] Like NHTSA's approach in the interim final rule, this section may serve as NHTSA's Draft Environmental Assessment (Draft EA). The issue raised by commenters on the EA presented in the interim final rule is addressed below. NHTSA invites public comments on the applicability of NEPA to this action and the contents and tentative conclusions of this Draft EA.

I. Purpose and Need

This SNPRM sets forth the purpose of and need for this action. Pursuant to the Inflation Adjustment Act and the Second Circuit's decision, NHTSA is required to make an initial ''catch-up'' adjustment to the civil monetary penalties it administers for the CAFE program. The purpose of this SNPRM is to consider the timing of the application of the adjustment to the CAFE civil penalty rate, consistent with the statutory requirements.

II. Alternatives

The first alternative is to restore the *status quo ante* prior to the interim final rule, which is adjusting the CAFE civil penalty rate from $5.50 to $14 beginning in Model Year 2019. This timing was originally established by the December 2016 final rule and was twice made effective by decisions of the Second Circuit. The second alternative is applying the adjustment beginning in Model Year 2022, which reflects the action taken in the interim final rule. NHTSA is no longer considering the alternative of applying the adjustment beginning in Model Year 2023. NHTSA is accepting comments on whether it should consider other alternatives of the inflation adjustment applying beginning with a model year later than Model Year 2019. Commenters arguing for such a position should explain how it is consistent with the 2015 Act and the Second Circuit's decisions.

III. Environmental Impacts of the Action and Alternatives

In the interim final rule, NHTSA asserted that it anticipated no differences in environmental impacts associated with the alternatives of applying the adjustment beginning in Model Years 2019, 2020, 2021, or 2022. NHTSA based this conclusion on the fact that vehicles for Model Years 2019 and 2020 had largely if not entirely been produced already, and many manufacturers were already selling Model Year 2021 vehicles.

After reviewing the comments received in response to the interim final rule, NHTSA has reconsidered whether this assessment is complete. Commenters have argued that, regardless of the impact of this rulemaking action on Model Year 2019 through 2021 vehicles, longer-term impacts may vary as a result of manufacturer multi-year planning, the transfer of credits across model years and between manufacturers, and the changing value of credits over time. If this is correct, applying the adjustment earlier could result in manufacturers applying credit balances to Model Year 2019 through 2021 vehicles and being incentivized to make fuel economy improvements in their fleet beyond that timeframe, rather than paying civil penalties at the $5.50 rate for Model Years 2019 through 2021 and saving the credits for future model years when they could be valued more due to the inflation adjustment. Additionally, for manufacturers without credit balances, the potential application of a significantly higher civil penalty for Model Years 2019 through 2021 may spur more rapid implementation of fuel-saving technology in order to allow the manufacturer to accrue credits that may be carried back to cover the shortfall in Model Years 2019 through 2021.

Overall, NHTSA anticipates that applying the adjustment beginning with Model Year 2019 may lead to the eventual application of more fuel-saving technology, resulting in fewer greenhouse gas emissions and reductions in many criteria and toxic air pollutants compared to applying the adjustment beginning in Model Year 2022.[50] Although Model Years 2019 and 2020 are already completed, and Model Year 2021 is underway, the civil penalty assessment process is not yet complete for any of them.[51] As a result, NHTSA does not yet know the anticipated manufacturer compliance shortfall for these model years. Because manufacturers can apply credits across a multi-year window, their decisions about how to apply credits in earlier model years will affect the availability of credits and the application of fuel-saving technology in later model years. However, NHTSA does not know whether and to what degree manufacturers will choose to pay fines in lieu of applying accrued credits, trade credits with other manufacturers, or rely on multi-year planning and credit carry-forward and carry-back to address shortfalls. NHTSA invites comments, information, and analyses from the public on the degree to which this may occur as a result of changes to the civil penalty rate in Model Year 2019 versus Model Year 2022.

At this time, however, NHTSA anticipates the impacts to be small. The difference between the alternatives contemplated in this action is only whether or not the civil penalty rate increase applies to three Model Years: 2019, 2020, and 2021. NHTSA continues to believe the impacts on those Model Years alone is expected to be *de minimis,* as Model Years 2019 and 2020 have largely if not entirely been produced already, and manufacturers are already selling Model Year 2021 vehicles. Further, as NHTSA has addressed in its CAFE rulemakings, many manufacturers have been unwilling to pay civil penalties historically. Those manufacturers may continue to opt to apply credits even if a lower civil penalty rate applied, rather than hold credits for future model years when the civil penalty rate would be higher. NHTSA also seeks comments on these conclusions.

IV. Agencies and Persons Consulted

NHTSA and DOT have consulted with OMB and the U.S. Department of Justice and provided other Federal agencies with the opportunity to review and provide feedback on this rulemaking.

V. Conclusion

NHTSA has reviewed the information presented in this Draft EA and tentatively concludes that adjusting the CAFE civil penalty rate beginning with Model Year 2019, as compared to Model Year 2022, would have, at most, a more positive impact on the quality of the

[49] Comment from Natural Resources Defense Council and Sierra Club, NHTSA–2021–0001–0013; Comment from the New York University School of Law Institute of Policy Integrity, NHTSA–2021–0001–0011.

[50] *See* NHTSA's Final Environmental Impact Statements for the CAFE rulemaking for MYs 2017 and beyond (Docket No. NHTSA–2011–0056) and for MYs 2021–2026 (Docket No. NHTSA–2017–0069), both of which illustrate these trends as fuel economy standard stringency increases across alternatives. Both EISs are also available on the agency's fuel economy website: *https://www.nhtsa.gov/fuel-economy.*

[51] Because NHTSA does not have final model year performance data verified by EPA for these model years, any quantitative projections of the environmental impact across multiple model years would be too speculative to rely upon at this time.

human environment to the extent that manufacturers may be more likely to expend credit balances on Model Year 2019 through 2021 vehicles than if the civil penalty rate remained at $5.50 for those model years. Lacking such credits in future years, manufacturers would be more likely to make improvements to the fuel economy of their fleets to avoid paying the higher civil penalty rates that would occur under either alternative. Additionally, higher civil penalty rates in Model Years 2019 through 2021 may cause manufacturers to more rapidly implement fuel-saving technology so that they may accrue credits to be carried back to cover compliance shortfalls. But NHTSA does not expect any differences in the impacts under either of the alternatives to rise to the level of significance that would necessitate the preparation of an Environmental Impact Statement.

Based on the information in this Draft EA, and assuming no additional information or changed circumstances, NHTSA expects to make a Finding of No Significant Impact (FONSI). Such a finding will not be made before careful review of all public comments received. If NHTSA determines it is appropriate to do so, a Final EA and a FONSI will be issued as part of the final rule.

6. Executive Order 12988 (Civil Justice Reform)

This rulemaking is not expected to have a preemptive effect. This rulemaking is also not expected to have a retroactive effect, and NHTSA requests comment on this point. Judicial review of the interim final rule or a subsequent final rule may be obtained pursuant to 5 U.S.C. 702.

7. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, NHTSA states that there are no requirements for information collection associated with this rulemaking action.

8. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *https://www.transportation.gov/privacy.*

List of Subjects in 49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Penalties, Rubber and rubber products, Tires.

In consideration of the foregoing, the National Highway Traffic Safety Administration proposes to amend 49 CFR part 578 as set forth below.

PART 578—CIVIL AND CRIMINAL PENALTIES

■ 1. The authority citation for 49 CFR part 578 continues to read as follows:

Authority: Pub. L. 101–410, 104 Stat. 890; Pub. L. 104–134, 110 Stat. 1321; Pub. L. 109–59, 119 Stat. 1144; Pub. L. 114–74, 129 Stat. 584; Pub. L. 114–94, 129 Stat. 1312; 49 U.S.C. 30165, 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32902, 32912, and 33115; delegation of authority at 49 CFR 1.81, 1.95.

■ 2. Amend § 578.6 by revising paragraph (h)(2) to read as follows:

§ 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

* * * * *

(h) * * *

(2) Except as provided in 49 U.S.C. 32912(c), beginning with model year 2019, a manufacturer that violates a standard prescribed for a model year under 49 U.S.C. 32902 is liable to the United States Government for a civil penalty of $14, plus any adjustments for inflation that occurred or may occur (for model years before model year 2019, the civil penalty is $5.50), multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(i) Calculated under 49 U.S.C. 32904(a)(1)(A) or (B) for automobiles to which the standard applies produced by the manufacturer during the model year;

(ii) Multiplied by the number of those automobiles; and

(iii) Reduced by the credits available to the manufacturer under 49 U.S.C. 32903 for the model year.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95, and 501.5.

Steven S. Cliff,

Acting Administrator.

[FR Doc. 2021–17842 Filed 8–18–21; 11:15 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 86, No. 159

Friday, August 20, 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

Forest Service

Information Collection; Forest Products Customer Satisfaction Survey

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the new information collection, Forest Products Customer Satisfaction Survey.

DATES: Comments must be received in writing on or before October 19, 2021 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed:

Email: ashley.warriner@usda.gov.

Mail: Ashley Warriner, Program Specialist, USDA Forest Service, Forest Management, 1400 Independence Avenue SW, Washington, DC 20250.

Please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding inclusion of the routine notice.

The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to *ashley.warriner@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Colleen O'Brien, Forest Management, telephone 559–920–6093, email *colleen.obrien@usda.gov.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Forest Products Customer Satisfaction Survey.

OMB Number: 0596–NEW.

Expiration Date of Approval:

Type of Request: New information collection.

Abstract: The Forest Service will conduct a survey among external stakeholders to collect data on their perceptions, experience, and overall satisfaction with the agency's forest products program. For purposes of this survey, the ''forest products program'' includes timber sales, stewardship contracts, stewardship agreements, or other instruments through which the Forest Service contracts with an external actor for vegetation management or forest products removal projects. Specifically, the survey will collect data on project or sale-level factors that may cause a partner or customer to choose not to bid on a sale or project, as well as their perceptions of FS employee training, knowledge of timber markets and overall relationships and customer service. The survey is one element of the larger Forest Products Modernization (FPM) effort's monitoring strategy. FPM seeks to improve efficiency in how the agency manages forests, delivers forest products, and carries out timber sales to better meet current and future forest health and restoration goals. Through modernizing the forest products program, the Forest Service also seeks to improve relationships and the service we provide to timber purchasers, stewardship contractors and other partners. This survey seeks to assess the extent to which strategic investments guided by the FPM effort are contributing to the satisfaction of those who work alongside the agency to advance forest health goals and support local economies.

Affected Public: Targeted respondents include any external actor that bids on or participates in Forest Service contracts or agreements for removal of forest products from National Forests System lands. They may include private sector timber purchasers, non-governmental organizations that enter into stewardship contracts or agreements, State agency representatives, and Tribes that enter into contracts and/or perform restoration work on National Forest System lands.

Estimate of Burden per response: 10 minutes.

Estimated Annual Number of Respondents: 140.

Estimated Annual Number of Responses: 140.

Estimated Total Annual Burden on Respondents: 23 hours.

Comment is Invited: Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and proper performance of agency functions, including whether the information will have practical or scientific utility; (2) accuracy of the agency's information collection burden estimate, including validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of information to be collected; and (4) ways to minimize the information collection burden on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

John G. Church,

Assistant Director, Forest & Rangeland Management and Vegetation Ecology, National Forest System.

[FR Doc. 2021–17910 Filed 8–19–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, Agriculture (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, September 9, 2021, at 11:00 a.m., Pacific Daylight Time; and
- Thursday, September 23, 2021, at 11:00 a.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held virtually via Microsoft Teams. Details for how to join the meeting are listed in the above website link under **SUMMARY**.

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 telecommunications devices for the hearing-impaired (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review the following:

1. Roll call;
2. Comments from the Designated Federal Officer (DFO);
3. Approve minutes from last meeting;
4. Discuss, recommend, and approve projects;
5. Public comment period; and
6. Closing comments from the DFO.

The meetings are open to the public. The agendas will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by the Tuesday before each of the scheduled meetings to be scheduled on the agenda for that particular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for 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: August 17, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–17922 Filed 8–19–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Office of the Secretary

[Docket No.: 210804–0158]

Public Availability of Department of Commerce FY 2019 Service Contract Inventory Data

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Notice.

SUMMARY: In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010, the Department of Commerce (DOC) is publishing this notice to advise the public of the availability of the Fiscal Year (FY) 2019 Service Contract Inventory data, a report that analyzes DOC's FY 2018 Service Contract Inventory and a plan for the analysis of FY 2019 Service Contract Inventory.

ADDRESSES: The Department of Commerce's FY 2019 Service Contract Inventory is included in the government-wide inventory available at: *https://www.acquisition.gov/service-contract-inventory,* which can be filtered to display the FY 2019 inventory for each agency. In addition to the link to access DOC's FY 2019 service contract inventory, the FY 2018 Analysis Report and Plan for analyzing the FY 2019 data is on the Office of Acquisition Management homepage at the following link *https://www.commerce.gov/oam/resources/service-contract-inventory.* OFPP's guidance memo on service contract inventories is available at: *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/procurement/memo/service-contract-inventories-guidance-11052010.pdf.*

FOR FURTHER INFORMATION CONTACT: Questions regarding the service contract inventory should be directed to Virna Winters, Director for Acquisition Policy and Oversight Division at 202–482–4248 or *vwinters@doc.gov.*

SUPPLEMENTARY INFORMATION: The service contract inventory provides information on service contract actions over $150,000 made in FY 2019. The information is organized by function to show how contracted resources are distributed throughout the agency. The inventory has been developed in accordance with guidance on service contract inventories issued on November 5, 2010, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP).

Barry E. Berkowitz,

Senior Procurement Executive and Director, Office of Acquisition Management.

[FR Doc. 2021–17601 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–17–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–33–2021]

Foreign-Trade Zone (FTZ) 293—Limon, Colorado; Authorization of Production Activity; Kaiser Premier LLC (Special Purpose Vehicles), Fort Morgan, Colorado

On April 19, 2021, the Town of Limon, Colorado, grantee of FTZ 293, submitted a notification of proposed production activity to the FTZ Board on behalf of Kaiser Premier LLC, within Subzone 293A, in Fort Morgan, Colorado.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 22932, April 30, 2021). On August 17, 2021, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: August 17, 2021.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2021–17853 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–06–2021]

Foreign-Trade Zone 240—Martinsburg, West Virginia; Withdrawal of Application for Reorganization Under Alternative Site Framework

Notice is hereby given of the withdrawal of the application submitted by the West Virginia Economic Development Authority, grantee of Foreign-Trade Zone 240, requesting authority to reorganize the zone under the alternative site framework. The application was docketed on February 4, 2021 (86 FR 8762, February 9, 2021). The withdrawal was requested by the applicant due to changed circumstances. The case has been closed without prejudice.

Dated: August 16, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–17856 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) determines that diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (China) were sold at less than normal value by certain exporters during the period of review (POR) November 1, 2018, through October 31, 2019.

DATES: Applicable August 20, 2021.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3683 or (202) 482–0410, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 2021, Commerce published in the **Federal Register** the preliminary results of the 2018–2019 administrative review of the antidumping duty order on diamond sawblades and parts thereof from China.[1] We invited interested parties to comment on the *Preliminary Results* and we received case briefs from the petitioner, the Diamond Sawblades Manufacturers' Coalition, and Wuhan Wanbang Laser Diamond Tools Co., Ltd. (Wuhan Wanbang),[2] and rebuttal briefs from the petitioner and Chengdu Huifeng New Material Technology Co., Ltd. (Chengdu Huifeng).[3] On June 11, 2021, Commerce extended the deadline for the final results by 60 days to no later than September 15, 2021.[4]

Scope of the Order

The products covered by the antidumping duty *Order*[5] are diamond sawblades. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.[6]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs filed by interested parties in this review are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised, and to which we responded in the Issues and Decision Memorandum, follows as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Final Determination of No Shipments

We preliminarily found that Bosun Tools Co., Ltd., Danyang Weiwang Tools Manufacturing Co., Ltd., and Weihai Xiangguang Mechanical Industrial Co., Ltd., which have been eligible for separate rates in previous segments of the proceeding and are subject to this review, did not have any shipments of subject merchandise during the POR.[7] No party commented on the *Preliminary Results* regarding our no-shipments determination. Therefore, for these final results, we continue to find that these companies did not have any shipments of subject merchandise during the POR and will issue appropriate instructions to CBP based on these final results.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the Issues and Decision Memorandum, we did not make changes to the preliminary calculations of the weighted-average dumping margins for the mandatory respondents, Chengdu Huifeng and Wuhan Wanbang, and the margin assigned to the separate rate respondents.

Separate Rate for Non-Selected Companies

In the *Preliminary Results,* we found that evidence provided by Chengdu Huifeng, the Jiangsu Fengtai Single Entity,[8] Wuhan Wanbang, and Zhejiang Wanli Tools Group Co., Ltd., supported finding an absence of both *de jure* and *de facto* government control, and, therefore, we preliminarily granted a separate rate to each of these

[1] *See Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Rescission of Review in Part; 2018–2019,* 86 FR 14873 (March 19, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Petitioner's Letter, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: DSMC's Case Brief,'' dated April 22, 2021; *see also* Wuhan Wanbang's Letter, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: Submission of Wuhan Wanbang's Case Brief,'' dated April 22, 2021.

[3] *See* Petitioner's Letter, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: DSMC's Rebuttal Brief,'' dated April 29, 2021; *see also* Chengdu Huifeng's Letter, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: Submission of Chengdu Huifeng's Rebuttal Case Brief,'' dated April 29, 2021.

[4] *See* Memorandum, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review; 2018–2019,'' dated June 11, 2021.

[5] *See Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea: Antidumping Duty Orders,* 74 FR 57145 (November 4, 2009) (*Order*).

[6] *See* Memorandum, ''Diamond Sawblades and Parts Thereof from the People's Republic of China: Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review; 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See Preliminary Results,* 86 FR at 14874.

[8] The Jiangsu Fengtai Single Entity is comprised of Jiangsu Fengtai Diamond Tool Manufacturer Co., Ltd.; Jiangsu Fengtai Diamond Tools Co., Ltd.; and Jiangsu Fengtai Sawing Industry Co., Ltd. *See Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014–2015,* 82 FR 26912, 26913, n. 5 (June 12, 2017).

companies/company groups.[9] We received no comments since the issuance of the *Preliminary Results* regarding our determination that these four companies/company groups are eligible for a separate rate. As in the *Preliminary Results,* Commerce calculated rates for the mandatory respondents Chengdu Huifeng and Wuhan Wanbang that are zero, *de minimis,* or based entirely on facts available. Therefore, in accordance with section 735(c)(5)(B) of the Act and its prior practice, Commerce assigned a simple average of Chengdu Huifeng's calculated rate (*i.e.,* 0.00 percent) and Wuhan Wanbang's AFA rate (*i.e.,* 82.05 percent) as the separate rate for the non-examined separate rate exporters for these final results.[10]

China-Wide Entity

As stated in the *Preliminary Results,* because no party requested a review of the China-wide entity in this review, the entity is not under review and the entity's rate is not subject to change (*i.e.,* 82.05 percent).[11] Aside from the no-shipment and separate rate companies discussed above, Commerce considers all other companies for which a review was requested and which did not file a separate rate application to be part of the China-wide entity.[12]

Final Results of Administrative Review

As a result of this administrative review, Commerce determines that the following weighted-average dumping margins exist for the period November 1, 2018, through October 31, 2019:

Exporters	Weighted-average dumping margin (percent)
Chengdu Huifeng New Material Technology Co., Ltd	0.00
Wuhan Wanbang Laser Diamond Tools Co., Ltd	82.05
Separate Rate Applicable to the Following Non-Selected Companies:	
Jiangsu Fengtai Single Entity	41.03
Zhejiang Wanli Tools Group Co., Ltd	41.03

Disclosure

Commerce intends to disclose the calculations performed for these final results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice of final results in the **Federal Register** in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce has determined, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Because the dumping margin for Chengdu Huifeng New Material Technology Co., Ltd. is zero, Commerce will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[13] For Wuhan Wanbang Laser Diamond Tools Co., Ltd., we will instruct CBP to apply an antidumping duty assessment rate of 82.05 percent to all entries of subject merchandise that entered the United States during the POR. For all non-selected respondents that received a separate rate, we will instruct CBP to apply an antidumping duty assessment rate of 41.03 percent to all entries of subject merchandise that entered the United States during the POR. For the three companies that we determined had no reviewable entries of the subject merchandise in this review period, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the China-wide rate, 82.05 percent. For all other companies, we will instruct CBP to apply the antidumping duty assessment rate of the China-wide entity to all entries of subject merchandise exported by these companies.[14]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by the companies listed above that have separate rates, the cash deposit rate will be the rate established in these final results of review for each exporter as listed above; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-wide entity; and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a

[9] *See* the ''Separate Rates'' section of the Preliminary Decision Memorandum.

[10] For more details on our methodology in selecting a rate for a non-examined separate rate exporter, *see* the ''Separate Rates'' section of the Preliminary Decision Memorandum.

[11] *See Diamond Sawblades and Parts Thereof from the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2012–2013,* 80 FR 32344 (June 8, 2015).

[12] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 2159 (February 6, 2019) (''All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below.''); *see also* Appendix II for the list of companies that are subject to this administrative review and considered to be part of the China-wide entity.

[13] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[14] *See Initiation Notice,* 85 FR at 2160 (''All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below.'')

certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

Commerce is issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: August 16, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Surrogate Country
V. Discussion of the Issues
  Comment 1: Valuation of Diamond Input
  Comment 2: Whether to Apply Total Adverse Facts Available to Chengdu Huifeng
  Comment 3: Whether to Apply Total Adverse Facts Available to Wuhan Wanbang
VI. Recommendation

Appendix II

Companies that are subject to this administrative review and considered to be part of the China-wide entity are:

ASHINE Diamond Tools Co., Ltd.
Danyang City Ou Di Ma Tools Co., Ltd.
Danyang Hantronic Import & Export Co., Ltd.
Danyang Huachang Diamond Tools Manufacturing Co., Ltd.
Danyang Like Tools Manufacturing Co., Ltd.
Danyang NYCL Tools Manufacturing Co., Ltd.
Danyang Tsunda Diamond Tools Co., Ltd.
Guilin Tebon Superhard Material Co., Ltd.
Hangzhou Deer King Industrial and Trading Co., Ltd.
Hangzhou Kingburg Import & Export Co., Ltd.
Hebei XMF Tools Group Co., Ltd.
Henan Huanghe Whirlwind Co., Ltd.
Henan Huanghe Whirlwind International Co., Ltd.
Hong Kong Hao Xin International Group Limited
Hubei Changjiang Precision Engineering Materials Technology Co., Ltd.
Hubei Sheng Bai Rui Diamond Tools Co., Ltd.
Huzhou Gu's Import & Export Co., Ltd.
Jiangsu Huachang Diamond Tools Manufacturing Co., Ltd.
Jiangsu Inter-China Group Corporation
Jiangsu Youhe Tool Manufacturer Co., Ltd.
Orient Gain International Limited
Pantos Logistics (HK) Company Limited
Pujiang Talent Diamond Tools Co., Ltd.
Qingdao Hyosung Diamond Tools Co., Ltd.
Qingyuan Shangtai Diamond Tools Co., Ltd.
Qingdao Shinhan Diamond Industrial Co., Ltd.
Quanzhou Zhongzhi Diamond Tool Co., Ltd.
Rizhao Hein Saw Co., Ltd.
Saint-Gobain Abrasives (Shanghai) Co., Ltd.
Shanghai Jingquan Industrial Trade Co., Ltd.
Shanghai Starcraft Tools Co., Ltd.
Sino Tools Co., Ltd.
Wuhan Baiyi Diamond Tools Co., Ltd.
Wuhan Sadia Trading Co., Ltd.
Wuhan ZhaoHua Technology Co., Ltd.
Xiamen ZL Diamond Technology Co., Ltd.
ZL Diamond Technology Co., Ltd.
ZL Diamond Tools Co., Ltd.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–141]

Certain Walk-Behind Snow Throwers and Parts Thereof From the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation

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

DATES: Applicable August 20, 2021.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4243 or (202) 482–5848, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 19, 2021, the Department of Commerce (Commerce) initiated a less-than-fair- value (LTFV) investigation of imports of certain walk-behind snow throwers and parts thereof (snow throwers) from the People's Republic of China.[1] Currently, the preliminary determination is due no later than September 7, 2021.[2]

Postponement of Preliminary Determination

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner makes a timely request for a postponement; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make a preliminary determination. Under 19 CFR 351.205(e), the petitioner must submit a request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On August 6, 2021, the petitioner[3] submitted a timely request that Commerce postpone the preliminary determination in the LTFV investigation.[4] The petitioner states that a postponement is necessary to provide Commerce with adequate time to collect and analyze questionnaire responses from the mandatory respondent, Zhejiang Zhouli Industrial Co., Ltd. (Zhejiang Zhouli), to review data to identify deficiencies, and to investigate fully the extent to which Zhejiang Zhouli has engaged in LTFV sales of the

[1] *See Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 86 FR 22026 (April 26, 2021).

[2] The current deadline for the preliminary determination falls on September 6, 2021. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended,* 70 FR 24533 (May 10, 2005).

[3] The petitioner in this investigation is MTD Products Incorporated (MTD), a domestic producer of snow throwers.

[4] *See* Petitioner's Letter, ''Antidumping Duty Investigation of Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Petitioner's Request to Postpone the Preliminary Determination,'' dated August 6, 2021.

subject merchandise based on a comprehensive preliminary record.[5]

For the reasons stated above and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determination by 50 days (*i.e.,* 190 days after the date on which this investigation was initiated). As a result, Commerce will issue its preliminary determination no later than October 26, 2021. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination, unless postponed at a later date.

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 16, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

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[5] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–133, C–570–134]

Certain Metal Lockers and Parts Thereof From the People's Republic of China: Antidumping and Countervailing Duty Orders

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

SUMMARY: Based on the affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty (AD) and countervailing duty (CVD) orders on certain metal lockers and parts thereof (metal lockers) from the People's Republic of China (China).

DATES: Applicable August 20, 2021.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Patrick Barton at (202) 482–4243 or (202) 482–0012, respectively (AD), and Alex Cipolla or Charles Doss at (202) 482–4956 or (202) 482–4474, respectively (CVD); AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 705(d) and 735(d) of the Tariff Act of 1930, as amended (the Act), on July 7, 2021, Commerce published its affirmative final determinations in the CVD and less-than-fair-value (LTFV) investigations of metal lockers from China.[1] On August 13, 2021, the ITC notified Commerce of its final determinations, pursuant to sections 705(d) and 735(d) of the Act, that an industry in the United States is materially injured by reason of subsidized and LTFV imports of metal lockers from China, within the meaning of sections 705(b)(1)(A)(i) and 735(b)(1)(A)(i) of the Act.[2]

Scope of the Orders

The products covered by these orders are metal lockers from China. For a full description of the scope of these orders,*see* the Appendix to this notice.

AD Order

As stated above, on August 13, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determination that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of metal lockers from China that are sold in the United States at LTFV.[3] Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing this AD order. Because the ITC determined that LTFV imports of metal lockers from China are materially injuring a U.S. industry, unliquidated entries of subject merchandise from China, entered or withdrawn from warehouse, for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce intends to direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of metal lockers from China. Antidumping duties will be assessed on unliquidated entries of metal lockers from China entered, or withdrawn from warehouse, for consumption on or after February 11, 2021, the date of publication of the *AD Preliminary Determination,* but will not include entries occurring after the expiration of the provision measures period and before publication of the ITC's final injury determination, as further described below.[4]

[1] *See Certain Metal Lockers and Parts Thereof from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 35737 (July 7, 2021) (*LTFV Final Determination*); and *Certain Metal Lockers and Parts Thereof from the People's Republic of China: Final Affirmative Countervailing Duty Determination,* 86 FR 35741 (July 7, 2021).

[2] *See* ITC Notification Letter, Investigation Nos. 701–TA–639 and 641–642 and 731–TA–1475–1479, 1481–1483, and 1485–1492 (Final) dated August 13, 2021 (ITC Notification Letter).

[3] *See* ITC Notification Letter.

[4] *See Certain Metal Lockers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value,* Postponement of Final Determination and Extension of Provisional Measures, 86 FR 9051 (February 11, 2021) (*AD Preliminary Determination*).

Continuation of Suspension of Liquidation—AD

Except as noted in the ''Provisional Measures—AD'' section of this notice, in accordance with section 735(c)(1)(B) of the Act, Commerce intends to instruct CBP to continue to suspend liquidation on all relevant entries of metal lockers from China entered, or withdrawn from warehouse for consumption on or after the date of publication of the ITC's final affirmative injury determination in the **Federal Register**. These instructions suspending liquidation will remain in effect until further notice.

For each producer and exporter combination, Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below, adjusted by the relevant subsidy offsets. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determinations, CBP must require, at the same time as importers would normally deposit estimated duties on subject merchandise, a cash deposit equal to the rates listed in the table below: [5]

Exporter	Producer	Estimated weighted-average dumping margin	Cash deposit rate (adjusted for subsidy offsets) (percent)
Zhejiang Xingyi Metal Products Co., Ltd./Xingyi Metalworking Technology (Zhejiang) Co., Ltd.	Zhejiang Xingyi Metal Products Co., Ltd./Xingyi Metalworking Technology (Zhejiang) Co., Ltd.	21.25	10.71
Geelong Sales (Macao Commercial Offshore) Limited (a.k.a. Geelong Sales (MCO) Limited, Geelong Sales (Macao Commercial) Limited, and Geelong Sales (MC) Limited).	Zhongshan Geelong Manufacturing Co. Ltd	21.25	10.71
Hangzhou Evernew Machinery & Equipment Company Limited.	Zhejiang Yinghong Metalworks Co., Ltd	21.25	10.71
Hangzhou Zhuoxu Trading Co., Ltd	Shanghai Asi Building Materials Co., Ltd	21.25	10.71
Hangzhou Zhuoxu Trading Co., Ltd	Luoyang Mingxiu Office Furniture Co., Ltd	21.25	10.71
Hangzhou Zhuoxu Trading Co., Ltd	Luoyang Wandefu Import and Export Trading Co. Ltd.	21.25	10.71
Hangzhou Zhuoxu Trading Co., Ltd	Zhejiang Xingyi Metal Products Co., Ltd	21.25	10.71
Jiaxing Haihong Mechanical and Electrical Technology Co. Ltd.	Zhejiang Steelrix Office Furniture Co., Ltd	21.25	10.71
Kunshan Dongchu Precision Machinery Co., Ltd	Kunshan Dongchu Precision Machinery Co., Ltd	21.25	10.71
Luoyang Hynow Import and Export Co., Ltd	Luoyang Jiudu Golden Cabinet Co., Ltd	21.25	10.71
Luoyang Shidiu Import and Export Co., Ltd	Luoyang Yuabo Office Machinery Co., Ltd	21.25	10.71
Luoyang Steelart Office Furniture Co., Ltd	Luoyang Yongwei Office Furniture Co., Ltd	21.25	10.71
Luoyang Steelart Office Furniture Co., Ltd	Luoyang Zhuofan Steel Product Factory	21.25	10.71
Luoyang Steelart Office Furniture Co., Ltd	Luoyang Flyer Office Furniture Co., Ltd	21.25	10.71
Pinghu Chenda Storage Office Co., Ltd	Pinghu Chenda Storage Office Co., Ltd	21.25	10.71
Tianjin Jia Mei Metal Furniture Ltd	Tianjin Jia Mei Metal Furniture Ltd	21.25	10.71
China-Wide Entity		322.25	311.71

Because the estimated weighted-average dumping margin is zero for subject merchandise produced by Hangzhou Jusheng Metal Products Co., Ltd. and exported by Hangzhou Xline Machinery & Equipment Co., Ltd., entries of shipments of subject merchandise from this producer/exporter combination are excluded from the AD order on subject merchandise from China. On the basis of the *LTFV Final Determination* for this producer/exporter combination, we ordered CBP to liquidate entries of subject merchandise for this producer/exporter combination, entered or withdrawn from warehouse, for consumption on or after February 11, 2021, without regard to duties and to refund cash deposits. This exclusion will not be applicable to merchandise exported to the United States by these respondents in any other producer/exporter combination or by third parties that sourced subject merchandise from the excluded producer/exporter combinations.

Provisional Measures—AD

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that account for a significant proportion of metal lockers from China, Commerce extended the four-month period to six months in this AD investigation.[6] Commerce published the *AD Preliminary Determination* in this investigation on February 11, 2021.[7]

Therefore, the extended provisional measures period, beginning on the date of publication of the *AD Preliminary Determination,* ended on August 9, 2021. Therefore, in accordance with section 733(d) of the Act, Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of metal lockers from China entered, or withdrawn from warehouse, for consumption after August 9, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determinations in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determinations in the **Federal Register**.

CVD Order

As stated above, on August 13, 2021, in accordance with section 705(d) of the Act, the ITC notified Commerce of its final determination that an industry in

[5] *See* section 736(a)(3) of the Act.

[6] *See AD Preliminary Determination,* 86 FR at 9053.

[7] *See AD Preliminary Determination.*

the United States is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of metal lockers from China.[8] Therefore, in accordance with sections 705(c)(2) and 706 of the Act, Commerce is issuing this CVD order. Because the ITC determined that subsidized imports of metal lockers from China are materially injuring a U.S. industry, unliquidated entries of subject merchandise from China entered, or withdrawn from warehouse, for consumption, are subject to the assessment of countervailing duties.

Therefore, in accordance with section 706(a)(1) of the Act, Commerce intends to direct CBP to assess, upon further instruction by Commerce, countervailing duties on unliquidated entries of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after December 14, 2020, the date of publication of the *CVD Preliminary Determination,* but will not include entries occurring after the expiration of the provisional measure period and before the publication of the ITC's final injury determination under section 705(b) of the Act, as further described in the ''Provisional Measures—CVD'' section of this notice.[9]

Suspension of Liquidation and Cash Deposits—CVD

In accordance with section 706 of the Act, Commerce intends to instruct CBP to reinstitute the suspension of liquidation of all relevant entries of metal lockers from China, effective on the date of publication of the ITC's final affirmative injury determination in the **Federal Register**, and to assess, upon further instruction by Commerce, pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of subject merchandise in an amount based on the net countervailable subsidy rates below. On or after the date of publication of the ITC's final injury determination in the **Federal Register**, CBP must require, at the same time as importers would normally deposit estimated duties on subject merchandise, a cash deposit for each entry of subject merchandise equal to the subsidy rates listed below.[10] These instructions suspending liquidation will remain in effect until further notice. The all-others rate applies to all producers or exporters not specifically listed below, as appropriate:

Company	Subsidy rate (percent)
Zhejiang Xingyi Metal Products Co., Ltd	24.66
Changshu Taron Machinery Equipment Manufacturing Co., Ltd	131.51
Guangdong Yuhua Building Materials Co., Ltd	131.51
Jiangsu Tongrun Tool Cabinet Co., Ltd	131.51
Luoyang Mas Younger Office Furniture Co./Luoyang Mas Younger Export and Import Co	131.51
Luoyang Shidiu Import and Export Co., Ltd	131.51
Suzhou Yuanda Commercial Products Co. Ltd	131.51
Winnsen Industry Co., Ltd	131.51
Xiamen Headleader Technology	131.51
All Others	24.66

Provisional Measures—CVD

Section 703(d) of the Act states that the suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months. Commerce published the *CVD Preliminary Determination* on December 14, 2020.[11] Accordingly, the provisional measures period, beginning on the date of publication of the *CVD Preliminary Determination,* ended on April 12, 2021. Pursuant to section 707(b) of the Act, the collection of cash deposits at the rates listed above will begin on the date of publication of the ITC's final affirmative injury determination.

Therefore, in accordance with section 703(d) of the Act, Commerce instructed CBP to terminate the suspension of liquidation and to liquidate, without regard to countervailing duties, unliquidated entries of metal lockers from China entered, or withdrawn from warehouse, for consumption, after April 12, 2021, the date on which the provisional measures expired. Suspension of liquidation will resume on the date of publication of the ITC's final affirmative injury determinations in the **Federal Register**.

Notification to Interested Parties

This notice constitutes the AD and CVD orders with respect to metal lockers from China pursuant to sections 706(a) and 736(a) of the Act. Interested parties can find a list of orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

These orders are published in accordance with sections 706(a) and 736(a) of the Act and 19 CFR 351.211(b).

Dated: August 16, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The scope of the orders covers certain metal lockers, with or without doors, and parts thereof (metal lockers). The subject metal lockers are secure metal storage devices less than 27 inches wide and less than 27 inches deep, whether floor standing, installed onto a base or wall-mounted. In a multiple locker assembly (whether a welded locker unit, otherwise assembled locker unit or knocked down unit or kit), the width measurement shall be based on the width of an individual locker not the overall unit dimensions. All measurements in this scope are based on actual measurements taken on the outside dimensions of the single-locker unit. The height is the vertical measurement from the bottom to the top of the unit. The width is the horizontal (side to side) measurement of the front of the unit, and the front of the unit is the face with the door or doors or the opening for internal access of the unit if configured without a door. The depth is the measurement from the front to the back of the unit. The subject certain metal lockers typically include the bodies (back, side, shelf, top and bottom panels), door frames with or without doors which can be integrated into the sides or made separately, and doors.

The subject metal lockers typically are made of flat-rolled metal, metal mesh and/or expanded metal, which includes but is not limited to alloy or non-alloy steel (whether or not galvanized or otherwise metallically coated for corrosion resistance), stainless steel, or aluminum, but the doors may also include transparent polycarbonate, Plexiglas or similar transparent material or any combination thereof. Metal mesh refers to both wire mesh and expanded metal mesh. Wire mesh is a wire product in which the horizontal and transverse wires are welded at the cross-section in a grid pattern. Expanded metal mesh is made by slitting and stretching metal sheets to make a screen of diamond or other shaped openings.

Where the product has doors, the doors are typically configured with or for a handle or other device or other means that permit the use of a mechanical or electronic lock or locking mechanism, including, but not limited to: A combination lock, a padlock, a key lock (including cylinder locks) lever or knob lock, electronic key pad, or other electronic or wireless lock. The handle and locking mechanism, if included, need not be integrated into one another. The subject locker may or may not also enter with the lock or locking device included or installed. The doors or body panels may also include vents (including wire mesh or expanded metal mesh vents) or perforations. The bodies, body components and doors are typically powder coated, otherwise painted

[8] *See* ITC Notification Letter.

[9] *See Certain Metal Lockers and Parts Thereof from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination,* 85 FR 80771 (December 14, 2020) (*CVD Preliminary Determination*).

[10] *See* section 706(a)(3) of the Act.

[11] *See CVD Preliminary Determination.*

or epoxy coated or may be unpainted. The subject merchandise includes metal lockers imported either as welded or otherwise assembled units (ready for installation or use) or as knocked down units or kits (requiring assembly prior to installation or use).

The subject lockers may be shipped as individual or multiple locker units preassembled, welded, or combined into banks or tiers for ease of installation or as sets of component parts, bulk packed (*i.e.,* all backs in one package, crate, rack, carton or container and sides in another package, crate, rack, carton or container) or any combination thereof. The knocked down lockers are shipped unassembled requiring a supplier, contractor or end-user to assemble the individual lockers and locker banks prior to installation.

The scope also includes all parts and components of lockers made from flat-rolled metal or expanded metal (*e.g.,* doors, frames, shelves, tops, bottoms, backs, side panels, *etc.*) as well as accessories that are attached to the lockers when installed (including, but not limited to, slope tops, bases, expansion filler panels, dividers, recess trim, decorative end panels, and end caps) that may be imported together with lockers or other locker components or on their own. The particular accessories listed for illustrative purposes are defined as follows:

a. *Slope tops:* Slope tops are slanted metal panels or units that fit on the tops of the lockers and that slope from back to front to prevent the accumulation of dust and debris on top of the locker and to discourage the use of the tops of lockers as storage areas. Slope tops come in various configurations including, but not limited to, unit slope tops (in place of flat tops), slope hoods made of a back, top and end pieces which fit over multiple units and convert flat tops to a sloping tops, and slope top kits that convert flat tops to sloping tops and include tops, backs and ends.

b. *Bases:* Locker bases are panels made from flat-rolled metal that either conceal the legs of the locker unit, or for lockers without legs, provide a toe space in the front of the locker and conceal the flanges for floor anchoring.

c. *Expansion filler panel:* Expansion filler panels or fillers are metal panels that attach to locker units to cover columns, pipes or other obstacles in a row of lockers or fill in gaps between the locker and the wall. Fillers may also include metal panels that are used on the sides or the top of the lockers to fill gaps.

d. *Dividers:* Dividers are metal panels that divide the space within a locker unit into different storage areas.

e. *Recess trim:* Recess trim is a narrow metal trim that bridges the gap between lockers and walls or soffits when lockers are recessed into a wall.

f. *Decorative end panels:* End panels fit onto the exposed ends of locker units to cover holes, bolts, nuts, screws and other fasteners. They typically are painted to match the lockers.

g. *End caps:* End caps fit onto the exposed ends of locker units to cover holes, bolts, nuts, screws and other fasteners.

The scope also includes all hardware for assembly and installation of the lockers and locker banks that are imported with or shipped, invoiced, or sold with the imported locker or locker system except the lock.

Excluded from the scope are wire mesh lockers. Wire mesh lockers are those with each of the following characteristics:

(1) At least three sides, including the door, made from wire mesh;

(2) the width and depth each exceed 25 inches; and

(3) the height exceeds 90 inches.

Also excluded are lockers with bodies made entirely of plastic, wood, or any nonmetallic material.

Also excluded are exchange lockers with multiple individual locking doors mounted on one master locking door to access multiple units. Excluded exchange lockers have multiple individual storage spaces, typically arranged in tiers, with access doors for each of the multiple individual storage space mounted on a single frame that can be swung open to allow access to all of the individual storage spaces at once. For example, uniform or garment exchange lockers are designed for the distinct function of securely and hygienically exchanging clean and soiled uniforms. Thus, excluded exchange lockers are a multi-access point locker whereas covered lockers are a single access point locker for personal storage. The excluded exchange lockers include assembled exchange lockers and those that enter in 'knock down' form in which all of the parts and components to assemble a completed exchange locker unit are packaged together. Parts for exchange lockers that are imported separately from the exchange lockers in 'knock down' form are not excluded.

Also excluded are metal lockers that are imported with an installed electronic, internet-enabled locking device that permits communication or connection between the locker's locking device and other internet connected devices.

Also excluded are locks and hardware and accessories for assembly and installation of the lockers, locker banks and storage systems that are separately imported in bulk and are not incorporated into a locker, locker system or knocked down kit at the time of importation. Such excluded hardware and accessories include but are not limited to locks and bulk imported rivets, nuts, bolts, hinges, door handles, door/frame latching components, and coat hooks. Accessories of sheet metal, including but not limited to end panels, bases, dividers and sloping tops, are not excluded accessories.

Mobile tool chest attachments that meet the physical description above are covered by the scope of the orders, unless such attachments are covered by the scope of the orders on certain tool chests and cabinets from China. If the orders on certain tool chests and cabinets from China are revoked, the mobile tool chest attachments from China will be covered by the scope of the orders.

The scope also excludes metal safes with each of the following characteristics: (1) Pry resistant, concealed hinges; (2) body walls and doors of steel that are at least 17 gauge (0.05625 inch or 1.42874 mm thick); and (3) an integrated locking mechanism that includes at least two round steel bolts 0.75 inch (19 mm) or larger in diameter; or three bolts 0.70 inch (17.78 mm) or more in diameter; or four or more bolts at least 0.60 inch (15.24 mm) or more in diameter, that project from the door into the body or frame of the safe when in the locked position.

The scope also excludes gun safes meeting each of the following requirements:

(1) Shall be able to fully contain firearms and provide for their secure storage.

(2) Shall have a locking system consisting of at minimum a mechanical or electronic combination lock. The mechanical or electronic combination lock utilized by the safe shall have at least 10,000 possible combinations consisting of a minimum three numbers, letters, or symbols. The lock shall be protected by a casehardened (Rc 60+) drill-resistant steel plate, or drill-resistant material of equivalent strength.

(3) Boltwork shall consist of a minimum of three steel locking bolts of at least ½ inch thickness that intrude from the door of the safe into the body of the safe or from the body of the safe into the door of the safe, which are operated by a separate handle and secured by the lock.

(4) The exterior walls shall be constructed of a minimum 12-gauge thick steel for a single-walled safe, or the sum of the steel walls shall add up to at least 0.100 inches for safes with walls made from two pieces of flat-rolled steel.

(5) Doors shall be constructed of a minimum one layer of 7-gauge steel plate reinforced construction or at least two layers of a minimum 12-gauge steel compound construction.

(6) Door hinges shall be protected to prevent the removal of the door. Protective features include, but are not limited to: Hinges not exposed to the outside, interlocking door designs, dead bars, jeweler's lugs and active or inactive locking bolts.

The scope also excludes metal storage devices that (1) have two or more exterior exposed drawers regardless of the height of the unit, or (2) are no more than 30 inches tall and have at least one exterior exposed drawer.

Also excluded from the scope are free standing metal cabinets less than 30 inches tall with a single opening, single door and an installed tabletop.

The scope also excludes metal storage devices less than 27 inches wide and deep that: (1) Have two doors hinged on the right and left side of the door frame respectively covering a single opening and that open from the middle toward the outer frame; or (2) are free standing or wall-mounted, single-opening units 20 inches or less high with a single door.

The subject certain metal lockers are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.20.0078. Parts of subject certain metal lockers are classified under HTS subheading 9403.90.8041. In addition, subject certain metal lockers may also enter under HTS subheading 9403.20.0050. While HTSUS subheadings are provided for convenience and Customs purposes, the written

description of the scope of the orders is dispositive.

[FR Doc. 2021–17865 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–840]

Certain Frozen Warmwater Shrimp From India: Rescission of Antidumping Duty Administrative Review; 2020–2021, in Part

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

SUMMARY: On April 1, 2021, the Department of Commerce (Commerce) initiated an administrative review of the antidumping duty (AD) order on certain frozen warmwater shrimp (shrimp) from India for the period February 1, 2020, through January 31, 2021, for 239 companies. Because all interested parties timely withdrew their requests for administrative review for certain companies, we are rescinding this administrative review with respect to those companies. For a list of the companies for which we are rescinding this review, *see* Appendix I to this notice. For a list of the companies for which the review is continuing, *see* Appendix II to this notice.

DATES: Applicable August 20, 2021.

FOR FURTHER INFORMATION CONTACT: Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6172.

SUPPLEMENTARY INFORMATION:

Background

On February 2, 2021, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on frozen warmwater shrimp from India for the period February 1, 2020, through January 31, 2021.[1] In February and March 2021, Commerce received timely requests, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), to conduct an administrative review of this antidumping duty order from the Ad Hoc Shrimp Trade Action Committee (the petitioner), the American Shrimp Processors Association (ASPA), and certain individual companies. Based upon these requests, on April 1, 2021, in accordance with section 751(a) of the Act, Commerce published in the **Federal Register** a notice of initiation listing 239 companies for which Commerce received timely requests for review.[2]

In May and June 2021, all interested parties timely withdrew their requests for an administrative review of certain companies.[3] These companies are listed in Appendix I.

Partial Rescission

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. As noted above, certain parties withdrew their requests for review by the 90-day deadline. Accordingly, we are rescinding this administrative review with respect to the companies listed in Appendix I.

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 no earlier than 35 days after publication of this notice in the **Federal Register**.

Notification to Importers

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with section 751(a)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: August 16, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

Akshay Food Impex Private Limited
Alashore Marine Exports (P) Ltd.
Alpha Marine
Ananda Enterprises (India) Private Limited
Ananda Group (comprised of Ananda Aqua Applications; Ananda Aqua Exports (P) Limited; and Ananda Foods)
Apex Frozen Foods Private Limited
Aquatica Frozen Foods Global Pvt. Ltd.
Arya Sea Foods Private Limited
Asvini Fisheries Ltd./Asvini Fisheries Private Ltd.
Avanti Frozen Foods Private Limited
BMR Exports
BMR Industries Private Limited
B-One Business House Private Limited
C.P. Aquaculture (India) Pvt. Ltd.
Castlerock Fisheries Ltd.
Choice Trading Corporation Pvt. Ltd.
Coastal Aqua Private Limited
Coastal Corporation Ltd.
Devi Fisheries Group (comprised of Devi Fisheries Limited; Satya Seafoods Private Limited; Usha Seafoods; and Devi Aquatech Private Limited)

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 86 FR 7855 (February 2, 2021).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 17126 (April 1, 2021).

[3] *See* Minh Phu Group's Letter, ''Request to Rescind Administrative Review and Notice of No Shipments,'' dated May 4, 2021; ASPA's Letter, ''American Shrimp Processors Association's Partial Withdrawal of Review Requests,'' dated June 10, 2021; Petitioner's Letter, ''Domestic Producers' Partial Withdrawal of Review Requests,'' dated June 10, 2021; Three Indian Producers' Letter, ''Withdrawal of Requests for Administrative Reviews for Three Indian Producers/Exporters (02/01/20–01/31/21),'' dated June 10, 2021; Eight Indian Producers' Letter, ''Withdrawal of Requests for Administrative Reviews for Eight (8) Indian Producers/Exporters (02/01/20–01/31/21),'' dated June 10, 2021; Royal Oceans' Letter, ''Royal Oceans Withdrawal of Request for Review of the Antidumping Duty Order for period of February 01, 2020 to January 31, 2021,'' dated June 14, 2021; RSA Marines' Letter, ''RSA Marines Withdrawal of Request for Review of the Antidumping Duty Order for period of February 01, 2020 to January 31, 2021,'' dated June 14, 2021; West Coast Frozen Foods Limited's Letter, ''Withdrawal of Request for Antidumping Duty Admin Review of West Coast Frozen Foods Private Limited,'' dated June 14, 2021; B-One Business House Pvt. Ltd.'s Letter, ''B-One Withdrawal of Request for Review of the Antidumping Duty Order for period of February 01, 2020 to January 31, 2021,'' dated June 15, 2021; and HN Indigos Pvt. Ltd.'s Letter, ''HN Indigos Withdrawal of Request for Review of the Antidumping Duty Order for period of February 01, 2020 to January 31, 2021,'' dated June 29, 2021.

Diamond Seafoods Exports/Edhayam Frozen Foods Private Limited/Kadalkanny Frozen Foods/Theva & Company
DSF Aquatech Private Limited
Falcon Marine Exports Limited/KR Enterprises
Five Star Marine Exports Private Limited
Forstar Frozen Foods Pvt. Ltd.
Geo Seafoods
Growel Processors Private Limited
IFB Agro Industries Limited
ITC Ltd.
Jagadeesh Marine Exports
Jaya Lakshmi Sea Foods Pvt. Ltd.
Kalyan Aqua & Marine Exp. India Pvt. Ltd.
KNC Agro Limited
Liberty Group (comprised of Devi Marine Food Exports Private Ltd.; Kader Exports Private Limited; Kader Investment and Trading Company Private Limited; Liberty Frozen Foods Private Limited; Liberty Oil Mills Limited; Premier Marine Products Private Limited; and Universal Cold Storage Private Limited)
Magnum Export/Magnum Exports Pvt. Ltd.
Magnum Seafoods Limited/Magnum Estates Limited
Mangala Marine Exim India Pvt. Ltd.
Mangala Seafoods (AKA Mangala Sea Foods)
Milesh Marine Exports Private Limited
Minh Phu Group
Monsun Foods Pvt. Ltd.
Mourya Aquex Pvt. Ltd.
Munnangi Seafoods (Pvt) Ltd.
Naga Hanuman Fish Packers
Neeli Aqua Private Limited
Nekkanti Mega Food Park Private Limited
Nekkanti Sea Foods Limited
Nezami Rekha Sea Foods Private Limited
Nila Sea Foods Exports/Nila Sea Food Pvt. Ltd.
Pasupati Aquatics Private Limited
Penver Products (P) Ltd.
Ram's Assorted Cold Storage Ltd.
Razban Seafoods Ltd.
Royale Marine Impex Private Limited
RSA Marines/Royal Oceans
S.A. Exports
Sagar Grandhi Exports Pvt. Ltd.
Sai Marine Exports Pvt. Ltd.
Sai Sea Foods
Sanchita Marine Products P Ltd
Sandhya Aqua Exports Pvt. Ltd.
Sandhya Marines Limited
Sea Foods Private Limited
Sharat Industries Ltd.
Shree Datt Aquaculture Farms Pvt. Ltd.
Southern Tropical Foods Pvt. Ltd.
Sprint Exports Pvt. Ltd.
Sunrise Seafoods India Private Limited
Suryamitra Exim Pvt. Ltd.
V.V. Marine Products
Vasista Marine
Veerabhadra Exports Private Limited
Wellcome Fisheries Limited
West Coast Fine Foods (India) Private Limited
West Coast Frozen Foods Private Limited
Z.A. Sea Foods Pvt. Ltd.

Appendix II

Abad Fisheries
Accelerated Freeze Drying Co.
ADF Foods Ltd.
Albys Agro Private Limited
Al-Hassan Overseas Private Limited
Allana Frozen Foods Pvt. Ltd.
Allanasons Ltd.
Alps Ice & Cold Storage Private Limited
Amarsagar Seafoods Private Limited
Amulya Seafoods
Anantha Seafoods Private Limited
Anjaneya Seafoods
Asvini Agro Exports
Ayshwarya Seafood Private Limited
B R Traders
Baby Marine Eastern Exports
Baby Marine Exports
Baby Marine International
Baby Marine Sarass
Baby Marine Ventures
Balasore Marine Exports Private Limited
BB Estates & Exports Private Limited
Bell Exim Private Limited
Bhatsons Aquatic Products
Bhavani Seafoods
Bijaya Marine Products
Blue Fin Frozen Foods Pvt. Ltd.
Blue Water Foods & Exports P. Ltd.
Bluepark Seafoods Pvt. Ltd.
Britto Seafood Exports Pvt Ltd.
Calcutta Seafoods Pvt. Ltd./Bay Seafood Pvt. Ltd./Elque & Co.
Canaan Marine Products
Capithan Exporting Co.
Cargomar Private Limited
Chakri Fisheries Private Limited
Chemmeens (Regd)
Cherukattu Industries (Marine Div)
Cochin Frozen Food Exports Pvt. Ltd.
Continental Fisheries India Private Limited
Coreline Exports
Corlim Marine Exports Pvt. Ltd.
CPF (India) Private Limited
Crystal Sea Foods Private Limited
Danica Aqua Exports Private Limited
Datla Sea Foods
Delsea Exports Pvt. Ltd.
Devi Sea Foods Limited [4]
Empire Industries Limited
Entel Food Products Private Limited
Esmario Export Enterprises
Everblue Sea Foods Private Limited
Febin Marine Foods Private Limited
Fedora Sea Foods Private Limited
Food Products Pvt., Ltd./Parayil Food Products Private Limited
Fouress Food Products Private Limited
Frontline Exports Pvt. Ltd.
G A Randerian Ltd.
Gadre Marine Exports (AKA Gadre Marine Exports Pvt. Ltd.)
Galaxy Maritech Exports P. Ltd.
Geo Aquatic Products (P) Ltd.
Godavari Mega Aqua Food Park Private Limited
Grandtrust Overseas (P) Ltd.
GVR Exports Pvt. Ltd.
Hari Marine Private Limited
Haripriya Marine Export Pvt. Ltd.
HIC ABF Special Foods Pvt. Ltd.
Hiravati Exports Pvt. Ltd.
Hiravati International Pvt. Ltd.
Hiravati Marine Products Private Limited
HMG Industries Limited
HN Indigos Private Limited
Hyson Exports Private Limited
Indian Aquatic Products
Indo Aquatics
Indo Fisheries
Indo French Shellfish Company Private Limited
International Freezefish Exports
Jinny Marine Traders
K.V. Marine Exports
Karunya Marine Exports Private Limited
Kaushalya Aqua Marine Product Exports Pvt. Ltd.
Kay Kay Exports
Kings Marine Products
Koluthara Exports Ltd.
Libran Foods
LNSK Green House Agro Products LLP/Green House Agro Products [5]
Mangala Sea Products
Marine Harvest India
Megaa Moda Pvt. Ltd.
Milsha Agro Exports Private Limited
Milsha Sea Product
Minaxi Fisheries Private Limited
Mindhola Foods LLP
MMC Exports Limited
MTR Foods
Naik Frozen Foods Private Limited
Naik Oceanic Exports Pvt. Ltd./Rafiq Naik Exports Pvt. Ltd.
Naik Seafoods Limited
NAS Fisheries Pvt. Ltd.
Nine Up Frozen Foods
NK Marine Exports LLP
Nutrient Marine Foods Limited
Oceanic Edibles International Limited
Paragon Sea Foods Pvt. Ltd.
Paramount Seafoods
Pesca Marine Products Pvt., Ltd.
Pijikay International Exports P Ltd.
Pravesh Seafood Private Limited
Premier Exports International
Premier Marine Foods
Premier Seafoods Exim (P) Ltd.
Raju Exports
Raunaq Ice & Cold Storage
RDR Exports
RF Exports Private Limited
Riyarchita Agro Farming Private Limited
Royal Imports and Exports
Rupsha Fish Private Limited
R V R Marine Products Private Limited
S Chanchala Combines Private Limited
Sagar Samrat Seafoods
Sahada Exports
Samaki Exports Private Limited
Sasoondock Matsyodyog Sahakari Society Ltd.
Sea Doris Marine Exports
Seagold Overseas Pvt. Ltd.
Shimpo Exports Private Limited
Shimpo Seafoods Private Limited
Shiva Frozen Food Exp. Pvt. Ltd.
Shroff Processed Food & Cold Storage P Ltd.
Silver Seafood
Sita Marine Exports
Sonia Fisheries

[4] Shrimp produced and exported by Devi Sea Foods Limited (Devi) was excluded from the order effective February 1, 2009. *See Certain Frozen Warmwater Shrimp from India: Final Results of the Antidumping Duty Administrative Review, Partial Rescission of Review, and Notice of Revocation of Order in Part,* 75 FR 41813, 41814 (July 19, 2010). Accordingly, we initiated this administrative review with respect to Devi only for shrimp produced in India where Devi acted as either the manufacturer or exporter (but not both).

[5] In March 2021, Commerce determined that LNSK Greenhouse Agro Products LLP is the successor-in-interest to Green House Agro Products.

Sri Sakkthi Cold Storage
Srikanth International
SSF Ltd.
Star Agro Marine Exports Private Limited
Star Organic Foods Private Limited
Stellar Marine Foods Private Limited
Sterling Foods
Summit Marine Exports Private Limited
Sun Agro Exim
Supran Exim Private Limited
Suvarna Rekha Exports Private Limited
Suvarna Rekha Marines P Ltd.
TBR Exports Pvt. Ltd.
Teekay Marine P Ltd.
The Waterbase Limited
Torry Harris Seafoods Ltd.
Triveni Fisheries P Ltd.
U & Company Marine Exports
Ulka Sea Foods Private Limited
Uniroyal Marine Exports Ltd.
Unitriveni Overseas Private Limited
Vaisakhi Bio-Marine Pvt. Ltd.
Vasai Frozen Food Co.
Veronica Marine Exports Private Limited
Victoria Marine & Agro Exports Ltd.
Vinner Marine
Vitality Aquaculture Pvt. Ltd.
VKM Foods Private Limited
VRC Marine Foods LLP
Zeal Aqua Limited

[FR Doc. 2021–17890 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB341]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of receipt.

SUMMARY: Notice is hereby given that NMFS has received an application from Stillwater Sciences to renew their U.S. Endangered Species Act (ESA) scientific enhancement permit (permit 20085–2R) involving invasive species removal from a southern California watershed (Chorro Creek) in San Luis Obispo County. Proposed activities within the permit application are expected to affect the threatened South Central California Coast (SCCC) Distinct Population Segment (DPS) of steelhead (*Oncorhynchus mykiss*). The public is hereby notified that the application for Permit 20085–2R is available for review and comment before NMFS either approves or disapproves the application.

DATES: Written comments on the permit application must be received at the appropriate email address (see **ADDRESSES**) on or before September 20, 2021.

ADDRESSES: Written comments on the permit application should be submitted to NMFS' section 10(a)1(A) steelhead permit coordinator for southern California, Matt McGoogan, via email (*matthew.mcgoogan@noaa.gov*). The permit application is available for review online at the Authorizations and Permits for Protected Species website: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

FOR FURTHER INFORMATION CONTACT: Matt McGoogan (phone: 562 980–4026; email: *matthew.mcgoogan@noaa.gov*).

SUPPLEMENTARY INFORMATION:

ESA-Listed Species Covered in This Notification

Threatened South Central California Coast Distinct Population Segment of steelhead (*Oncorhynchus mykiss*).

Authority

Scientific research and enhancement permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR 222–227). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith, (2) would not operate to the disadvantage of the listed species, which are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permits.

This notification is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the application, associated documents, and any comment submitted to determine whether the application meets the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period and consideration of any comment submitted therein. NMFS will publish notification of the final action on the subject permit application in the **Federal Register**.

Those individuals requesting a hearing on the application listed in this notification should provide the specific reasons why a hearing on the application would be appropriate (see **ADDRESSES**). Such a hearing is held at the discretion of the Assistant Administrator for Fisheries, NOAA.

All statements and opinions contained in the permit action summary are those of the applicant and do not necessarily reflect the views of NMFS.

Permit Application Received:

Permit 20085–2R

Stillwater Sciences (environmental consulting firm) has applied to renew their section 10(a)1(A) scientific enhancement permit (permit 20085–2R) involving an invasive species management effort focused on the removal of Sacramento pikeminnow (*Ptychocheilus grandis*) from the Chorro Creek watershed in San Luis Obispo County, California. The primary objectives of this effort involve: (1) Determining the distribution, abundance, size, and age structures of both pikeminnow and SCCC steelhead; (2) suppressing or eliminating pikeminnow from the watershed; (3) developing a plan for long-term pikeminnow management in the watershed; and (4) documenting changes in SCCC steelhead abundance and distribution in response to pikeminnow removal. Proposed enhancement activities include: (1) Conducting snorkel surveys to assess abundance and distribution of pikeminnow and SCCC steelhead; (2) using backpack electrofishing equipment, seine-nets, hook-and-line sampling, and spearfishing to capture pikeminnow; (3) anesthetizing any juvenile steelhead captured during electrofishing and seining activities prior to measuring weight and length; (4) returning any captured steelhead to Chorro Creek; and (5) humanely euthanizing and disposing of pikeminnow. Field activities for the proposed enhancement effort will occur during the summer and fall for ten years between October 2021, and December 2031. The annual take Stillwater Sciences is requesting for this effort is as follows: (1) Non-lethal capture and release of up to 1,500 juvenile steelhead while electrofishing, (2) non-lethal capture and release of up to 150 juvenile steelhead while seining, (3) non-lethal capture and release up to 10 juvenile steelhead while hook-and-line fishing, and (4) non-lethal observation of up to 2000 juvenile and 10 adult steelhead during instream snorkel surveys. The potential annual unintentional lethal take resulting from the proposed enhancement activities is up to 33 juvenile steelhead. Overall, no intentional lethal take of steelhead is proposed or expected as a result of these enhancement activities.

This proposed scientific enhancement effort is expected to support steelhead recovery in the Chorro Creek watershed and is consistent with recommendations and objectives outlined in NMFS' South Central California Steelhead Recovery Plan. See the application for Permit 20085–2R for greater details on the

scientific enhancement proposal and related methodology.

Dated: August 16, 2021.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–17869 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB342]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) and its advisory entities will hold online public meetings.

DATES: The Pacific Council and its advisory entities will meet online September 8–11 and 13–15, 2021, noting there will be no meetings held on Sunday, September 12, 2021. The Pacific Council meeting will begin on Thursday, September 9, 2021, at 8 a.m. Pacific Daylight Time (PDT), reconvening at 8 a.m. on Friday, September 10 through Saturday, September 11, 2021. The Council will reconvene Monday, September 13, through Wednesday, September 15. All meetings are open to the public, except for a Closed Session held from 8 a.m. to 10 a.m., Thursday, September 9, to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: Meetings of the Pacific Council and its advisory entities will be webinar only. Specific meeting information, including directions on joining the meeting, connecting to the live stream broadcast, 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: Mr. Chuck Tracy, Executive Director, Pacific Council; telephone: (503) 820–2415 or (866) 806–7204 toll-free, or access the Pacific Council website, *www.pcouncil.org* for the proposed agenda and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The September 9–11 and 13–15, 2021 meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 10 a.m. PDT Thursday, September 9, 2021, and continue at 8 a.m. Friday, September 10 through Wednesday, September 15, 2021, except no meetings are scheduled for Sunday, September 12. Broadcasts end when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion for the public is listen-only except that an opportunity for oral public comment will be provided prior to Council Action on each agenda item. Additional information and instructions on joining or listening to the meeting can be found on the Pacific Council's website (see *www.pcouncil.org*).

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under Sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, and advisory entity meeting times, are described in Agenda Item A.5, Proposed Council Meeting Agenda, and will be in the advance September 2021 briefing materials and posted on the Pacific Council website at *www.pcouncil.org* no later than Friday, August 20, 2021.

A. Call to Order
1. Opening Remarks
2. Council Member Appointments
3. Roll Call
4. Executive Director's Report
5. Approve Agenda

B. Open Comment Period
1. Comments on Non-Agenda Items

C. Groundfish Management
1. National Marine Fisheries Service Report
2. Stock Assessment Methodology Review
3. Pacific Whiting Utilization in the At-Sea Sectors
4. Electronic Monitoring—Final Action
5. Sablefish Gear Switching
6. Adopt Stock Assessments
7. Inseason Adjustments—Final Action
8. Initial Harvest Specifications and Management Measure Actions for 2023–24 Management

D. Highly Migratory Species Management
1. National Marine Fisheries Service Report
2. International Management Activities
3. Exempted Fishing Permits

E. Administrative Matters
1. Marine Planning
2. Fiscal Matters
3. Legislative Matters
4. Approval of Council Meeting Record
5. Standardized Bycatch Reporting Methodology
6. Membership Appointments and Council Operating Procedures
7. Future Council Meeting Agenda and Workload Planning

F. Salmon Management
1. National Marine Fisheries Service Report
2. Methodology Review—Final Topic Selection
3. Southern Oregon/Northern California Coast Coho Endangered Species Act Consultation

G. Pacific Halibut Management
1. 2022 Catch Sharing Plan and Annual Regulations
2. Commercial-Directed Fishery Regulations for 2022

H. Ecosystem Management
1. Fishery Ecosystem Plan Five-Year Review
2. Climate and Communities Initiative

I. Habitat Issues
1. Current Habitat Issues

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council website *www.pcouncil.org* no later than Friday, August 20, 2021.

Schedule of Ancillary Meetings

Day 1—Wednesday, September 8, 2021

Coastal Pelagic Species Advisory Subpanel 8 a.m.
Enforcement Consultants 8 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Habitat Committee 8 a.m.
Scientific and Statistical Committee 8 a.m.
Budget Committee 10 a.m.
Legislative Committee 1 p.m.

Day 2—Thursday, September 9, 2021

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Ecosystem Advisory Subpanel 8 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Habitat Committee 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Scientific and Statistical Committee 8 a.m.
Enforcement Consultants As Necessary

Day 3—Friday, September 10, 2021

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Ecosystem Advisory Subpanel 8 a.m.
Ecosystem Workgroup 8 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Enforcement Consultants As Necessary

Day 4—Saturday, September 11, 2021

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Enforcement Consultants As Necessary

** No Meetings Scheduled for Sunday, September 12*

Day 5—Monday, September 13, 2021

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Enforcement Consultants As Necessary

Day 6—Tuesday, September 14, 2021

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Enforcement Consultants As Necessary

Day 7—Wednesday, September 15, 2021

California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.

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 business days prior to the meeting date.

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

Dated: August 17, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–17906 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB340]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council (Council) will hold a one day in-person and virtual meeting (hybrid) of its Data Collection Advisory Panel (AP).

DATES: The meeting will take place Tuesday, September 14, 2021, from 9 a.m. to 5 p.m., EDT.

ADDRESSES: The in-person meeting will take place at the Gulf Council office. If you prefer not to travel at this time, you may attend via webinar. Registration information will be available on the Council's website by visiting *www.gulfcouncil.org* and clicking on the AP meeting on the calendar.

Council address: Gulf of Mexico Fishery Management Council, 4107 W. Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. Lisa Hollensead, Fishery Biologist, Gulf of Mexico Fishery Management Council; email: *lisa.hollensead@gulfcouncil.org;* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Tuesday, September 14, 2021; 9 a.m.–5 p.m., EDT

The meeting will begin with Introductions and Adoption of Agenda, Approval of Meeting Summary from the September 29, 2016 meeting, Election of Chair and Vice Chair and review of Scope of Work. The AP will review and discuss the Southeast For-hire Electronic Reporting (SEFHIER) Program; receive presentations on Update on SEFHIER progress and Draft Options for Electronic Reporting due to Equipment Failure, Background on Draft Options Document and hold AP Discussion.

The AP will also review and discuss Modifications to the Commercial Electronic Reporting Program and receive a presentation on updates, and hold a discussion. The AP will receive public comment; and, discuss any Other Business items.

—Meeting Adjourns

The meeting will be also be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the AP meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the 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 this meeting. Actions will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take-action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

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

Dated: August 17, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–17905 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB328]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Ecosystem-Based Fishery Management (EBFM) Committee 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 Friday, September 3, 2021, at 9 a.m. Webinar registration URL information: *https://attendee.gotowebinar.com/register/8411461181815869964.*

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 Ecosystem-Based Fishery Management (EBFM) Committee will receive an update on EBFM public information workshop plans, possibly meeting with a contractor chosen to facilitate the workshops. They will discuss potential National Standard 1 issues about managing catches by stock complex without specifying MSY for individual stocks. The Committee will also discuss and develop a plan for a mock EBFM Management Strategy Evaluation exercise as well as discuss and develop recommendations for 2022. 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: August 17, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–17904 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB260]

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 77 HMS Hammerhead Sharks data scoping webinar.

SUMMARY: The SEDAR 77 assessment of the Atlantic stock of hammerhead sharks will consist of a stock identification (ID) process, data webinars/workshop, a series of assessment webinars, and a review workshop.

DATES: The SEDAR 77 HMS Hammerhead Sharks Data Scoping Webinar has been scheduled for Friday, September 10, 2021, from 10 a.m. until 12 p.m. EDT.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Registration is available online at: *https://attendee.gotowebinar.com/register/5354318578386847501*

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Kathleen Howington, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4371; email: *Kathleen.Howington@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the SEDAR 77 HMS Hammerhead Shark Data Scoping are as follows:

- Discuss available data sources

- Identify and discuss potential new data sources

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: August 17, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–17907 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA086]

Atlantic Highly Migratory Species; Final Amendment 12 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan

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

ACTION: Notice of availability of a fishery management plan amendment.

SUMMARY: NMFS announces the availability of Final Amendment 12 to the 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP). The Final Amendment responds to revisions to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) National Standard (NS) guidelines, a rulemaking addressing reporting methodologies for bycatch as defined under the Magnuson-Stevens Act, and recent NMFS policy directives which aim to improve and streamline fishery management procedures to enhance their utility for managers and the public. This final amendment does not include a proposed rule or regulatory text. Any operational changes to fishery management measures as a result of Final Amendment 12 would be considered in future rulemakings, as appropriate.

DATES: The amendment was approved on August 16, 2021.

ADDRESSES: Electronic copies of Final Amendment 12 to the 2006 Consolidated HMS FMP may be obtained on the internet at: *https://www.fisheries.noaa.gov/action/amendment-12-2006-consolidated-hms-fishery-management-plan-msa-guidelines-and-national.*

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, *sarah.mclaughlin@noaa.gov,* 978–281–9260, or Karyl Brewster-Geisz, *karyl.brewster-geisz@noaa.gov,* 301–427–8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries are managed under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS FMP and its amendments are implemented by regulations at 50 CFR part 635.

The Magnuson-Stevens Act requires that any FMP or FMP amendment be consistent with 10 NSs. In 2016, NMFS published a final rule revising the guidelines for NS1, NS3, and NS7 to improve and clarify the guidance and to facilitate compliance with requirements of the Magnuson-Stevens Act to end and prevent overfishing, rebuild overfished stocks, and achieve optimum yield (OY) (81 FR 71858, October 18, 2016). The final rule on the NS guidelines included a recommendation that FMP objectives should be reassessed on a regular basis to reflect the changing needs of fisheries over time. Although no time frame was prescribed, the guidelines indicated that NMFS should provide notice to the public of the expected schedule for review. The final rule also noted that, for stocks managed under international agreements, consistent with provisions in the Magnuson-Stevens Act, NMFS may decide to use the international stock status determination criteria (SDC) defined by the relevant international body (*e.g.,* the International Commission for the Conservation of Atlantic Tunas (ICCAT)). Thus, Final Amendment 12 revises some of the objectives contained in the 2006 Consolidated Atlantic HMS FMP, and adopts the ICCAT SDC for ICCAT-managed HMS.

The Magnuson-Stevens Act further requires that any FMP, with respect to any fishery, establish standardized bycatch reporting methodology (SBRM) to assess the amount and type of bycatch occurring in a fishery. On January 19, 2017, NMFS published a final rule (82 FR 6317) to interpret and provide guidance on this requirement. Specifically, the 2017 final rule indicated that each FMP must identify the required procedure or procedures that constitute the SBRM for a fishery and conduct an analysis that explains how the SBRM meets the purposes described at 50 CFR 600.1600. Final Amendment 12 reviews of SBRMs for HMS fisheries.

Also in 2017, NMFS issued a Fisheries Allocation Review Policy Directive and Procedures (01–119), which described a mechanism to ensure that fishery quota allocations are periodically reviewed and evaluated to remain relevant to current conditions, improve transparency, and minimize conflict for a process that is often controversial. Final Amendment 12 establishes triggers for review of allocations of quota-managed HMS.

Finally, the HMS Stock Assessment and Fishery Evaluation (SAFE) Report is a public document that provides a summary of scientific information concerning the most recent biological condition of stocks, stock complexes, and marine ecosystems, essential fish habitat (EFH), and the social and economic condition of recreational and commercial HMS fishing interests, fishing communities, and the fish processing industries. NS2 guidelines specify that SAFE reports summarize, on a periodic basis, the best scientific information available concerning the past, present, and possible future condition of the stocks, EFH, marine ecosystems, and fisheries being managed under Federal regulation. In 2008, NMFS published Amendment 2 to the 2006 Consolidated HMS FMP which, among other things, indicated that publication of the HMS SAFE Report would occur by the fall of each year. Final Amendment 12 notifies the public of modified timing for release of the HMS SAFE Report to account for unexpected delays (*e.g.,* data availability, staff availability, furloughs, emergencies, etc.).

Final Amendment 12 is consistent with the revised 2016 NS guidelines, the 2017 SBRM rulemaking, and the 2017 Fisheries Allocation Review Policy Directive 01–119, along with other relevant statutes and the 2006 Consolidated Atlantic HMS FMP and its amendments. There is no final rule or regulatory text associated with Final Amendment 12. Quotas or other fishery management measures will not be

changed or affected as a result of this amendment. Any operational changes to fishery management measures as a result of Final Amendment 12 would be considered in future rulemakings, as appropriate.

On August 25, 2020, NMFS published a notice of availability of Draft Amendment 12 (85 FR 52329). Given that specific changes to fishery management measures are not proposed or evaluated in this amendment; NMFS does not expect any impacts. Furthermore, no extraordinary circumstances exist, and the action is not expected to be controversial. Thus, NMFS has determined that Final Amendment 12 would appropriately be categorically excluded from further analysis under the National Environmental Policy Act (NEPA).

NMFS sought public comment on Draft Amendment 12 through October 26, 2020. Additionally, NMFS conducted two public hearing conference calls/webinars for interested members of the public to submit verbal comments. NMFS received one written comment on the Draft Amendment, and received a number of additional comments and/or clarifying questions at the September 2020 Atlantic HMS Advisory Panel meeting and the two webinars. In general, commenters supported the intent of Draft Amendment 12 to address the 2006 Consolidated HMS FMP objectives, to adopt international SDC for internationally managed HMS, to update SBRM, to adopt triggers for review of allocations, and to adjust the publication date of the annual SAFE Report. Regarding reassessment of HMS FMP objectives, some commenters indicated support or opposition to certain changes, with some suggesting specific changes to strengthen, broaden, streamline, keep, or clarify the text, including for flexibility purposes. See the response to comments in the Appendix of Final Amendment 12.

Final Amendment 12 revises 12 of the 16 baseline HMS management objectives identified in the 2006 Consolidated HMS FMP and adds three new objectives. For further information including the full set of revised HMS FMP objectives, see the Final Amendment 12 document. Table 1 summarizes the three changes to the HMS FMP objectives relative to the revisions NMFS proposed in Draft Amendment 12, based on public comment and further consideration.

TABLE 1—CHANGES TO THE HMS FMP OBJECTIVES RELATIVE TO THE REVISIONS NMFS PROPOSED IN DRAFT AMENDMENT 12

Objective #	Text of 2006 consolidated HMS FMP objective	Text of revised FMP objective	Rationale for revision
14	Optimize the social and economic benefits to the nation by reserving the Atlantic billfish resource for its traditional use, which in the United States is entirely a recreational fishery.	Optimize the social and economic benefits to the nation by reserving the Atlantic billfish resource for its traditional use, which in the United States is entirely a recreational fishery.	No change. Although Atlantic billfish are already reserved for the recreational fishery and are prohibited from being landed commercially, NMFS has decided to retain Objective 14 in the HMS FMP to maintain this important concept in managing HMS fisheries.
15	Increase understanding of the condition of HMS stocks and HMS fisheries.	Increase understanding of the condition of Atlantic HMS stocks and fisheries, including stock status, biological, social, and economic information, and how HMS stocks and fisheries interact with other federally managed fisheries and species.	Adds text to elaborate on the type of information that could help with understanding Atlantic HMS stocks and fisheries.
18	Consistent with the other objectives of this FMP, consider ecosystem-based effects to support and enhance effective HMS fishery management.	Consistent with the other objectives of this FMP, consider ecosystem-based effects and seek to understand the impacts of shifts in the environment, including climate change, on Atlantic HMS fisheries to support and enhance effective HMS fishery management.	Adds an objective to consider ecosystem-based effects and shifts in the environment, including climate change, in Atlantic HMS fishery management.

Authority: 16 U.S.C. 971 *et seq.,* and 1801 *et seq.*

Dated: August 17, 2021.

Kelly Denit,

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

[FR Doc. 2021–17887 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB322]

New England Fishery Management Council; Public Meeting; Cancellation

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

ACTION: Notice of cancellation of a meeting.

SUMMARY: The New England Fishery Management Council (Council) has cancelled a public meeting of its Monkfish Committee that was scheduled for Wednesday, September 1, 2021.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION: The original meeting notice published in the **Federal Register** on Monday, August 16, 2021 (86 FR 45711).

The meeting will be rescheduled at a later dated and announced in the **Federal Register**.

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

Dated: August 17, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–17884 Filed 8–19–21; 8:45 am]

BILLING CODE 3510–22–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 service(s) previously furnished by such agencies.

DATES: Comments must be received on or before: September 19, 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) 785–64041, 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): 7510–00–134–8179—Binder, Awards Certificate, Silver USAF Seal, Blue, 14-½″ × 11″½″.
Designated Source of Supply: Dallas Lighthouse for the Blind, Inc., Dallas, TX.
Mandatory For: Total Government Requirement.
Contracting Activity: FEDERAL ACQUISITION SERVICE, GSA/FAS ADMIN SVCS ACQUISITION BR(2.
Distribution: A-List.

Deletions

The following service(s) are proposed for deletion from the Procurement List:

Service(s)

Service Type: Janitorial/Custodial.
Mandatory for: VA Medical Center: Dental Laboratory, Washington, DC.
Designated Source of Supply: Columbia Lighthouse for the Blind, Washington, DC.
Contracting Activity: VETERANS AFFAIRS, DEPARTMENT OF, NAC.

Service Type: Mailroom Support Services.
Mandatory for: Internal Revenue Service Mailroom: 310 West Wisconsin Avenue, 310 West Wisconsin Avenue, Milwaukee, WI.
Designated Source of Suppl: Industries for the Blind and Visually Impaired, Inc., West Allis, WI.
Contracting Activity: TREASURY, DEPARTMENT OF THE, DEPT OF TREAS/.

Service Type: Mailing Services.
Mandatory for: Government Printing Office: 710 North Capitol & H Street NW, 710 North Capital & H Street, Washington, DC.
Designated Source of Supply: Virginia Industries for the Blind, Charlottesville, VA.
Contracting Activity: Government Printing Office.

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2021–17899 Filed 8–19–21; 8:45 am]

BILLING CODE 6353–01–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: 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) and service(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* September 19, 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 5/28/2021, 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 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: Facility Management.
Mandatory for: U.S. Air Force, Airmen-In-Training Dormitories, Sheppard Air Force Base, TX.
Designated Source of Supply: Work Services Corporation, Wichita Falls, TX.
Contracting Activity: DEPT OF THE AIR FORCE, FA3020 82 CONS LGC.

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 U.S. Air Force, Facility Management, AIT Dormitories, Sheppard AFB, TX 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 U.S. Air Force will refer its business elsewhere, this addition must be effective on August 31, 2021, ensuring timely execution for a September 1, 2021, start date while still allowing 11 days for comment. Pursuant to its own regulation 41 CFR 51–2.4, the Committee determined that no severe adverse impact exists as government employees are currently providing the service. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on May 28, 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 7/16/2021, 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) and service(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, record keeping 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) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
8465–01–465–2124—MOLLE II Carrier Sleep System, Woodland Camouflage.
8465–01–491–7508—MOLLE II Carrier Sleep System, Desert Camouflage.
Designated Source of Supply: Alabama Industries for the Blind, Talladega, AL.
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA.

NSN(s)—Product Name(s): 7520–01–455–7237—Pen, Ballpoint, Stick Type, Recycled, Red Ink, Fine Point.
Designated Source of Supply: West Texas Lighthouse for the Blind, San Angelo, TX.
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY.

NSN(s)—Product Name(s): 4940–00–803–6444—Spray Kit, Self-Pressurized.
Designated Source of Supply: The Lighthouse for the Blind, St. Louis, MO.
Contracting Activity: DLA LAND AND MARITIME, COLUMBUS, OH.

Service(s)

Service Type: Unclass. Technical Order & Decal Distri.
Mandatory for: Oklahoma City Air Logistics Center, Tinker AFB, OK.
Designated Source of Supply: NewView Oklahoma, Inc., Oklahoma City, OK.
Contracting Activity: DEPT OF THE AIR FORCE, FA7014 AFDW PK.

Service Type: Classified Technical Order Distribution.
Mandatory for: Tinker Air Force Base: Building 3, Door 57, Tinker AFB, OK.
Designated Source of Supply: NewView Oklahoma, Inc., Oklahoma City, OK.
Contracting Activity: DEPT OF THE AIR FORCE, FA7014 AFDW PK.

Service Type: Peel&Stick Program Support.
Mandatory for: U.S. Coast Guard-Wide, 1750 Claiborne Avenue, Shreveport, LA.
Designated Source of Supply: Louisiana Association for the Blind, Shreveport, LA.
Contracting Activity: U.S. COAST GUARD, U.S. COAST GUARD.

Service Type: Storage/Distri. of Uniform Accessories.
Mandatory for: Defense Supply Center Philadelphia, PA.
Designated Source of Supply: Travis Association for the Blind, Austin, TX.
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT.

Service Type: Provi. of Customized Recog. & Awd. Prog.
Designated Source of Supply: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA.
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR.

Service Type: Management of State Department Mobile Security.
Mandatory for: Department of State, Office of Mobile Security Depolyments, Dunn Loring, VA, 2216 Gallows Road, Dunn Loring, VA.
Designated Source of Supply: Virginia Industries for the Blind, Charlottesville, VA.
Contracting Activity: STATE, DEPARTMENT OF, ACQUISITIONS—AQM MOMENTUM.

Service Type: Administrative/General Support Services.
Mandatory for: U.S. Customs Service, Gulf CMC, 423 Canal Street, New Orleans, LA.
Designated Source of Supply: The Lighthouse for the Blind in New Orleans, Inc., New Orleans, LA.
Contracting Activity: TREASURY, DEPARTMENT OF THE, DEPT OF TREAS.

Service Type: Administrative/General Support Services.
Mandatory for: GSA, Southwest Supply Center: 819 Taylor Street, Fort Worth, TX.
Designated Source of Supply: Dallas Lighthouse for the Blind, Inc., Dallas, TX.
Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR.

Service Type: Facilities Maintenance Services.
Mandatory for: DISA, JITC, 3341 Strauss Avenue, Building 900, Indian Head, MD.
Designated Source of Supply: Beacon Group, Inc., Tucson, AZ.
Contracting Activity: DEFENSE INFORMATION SYSTEMS AGENCY (DISA), IT CONTRACTING DIVISION—PL83.

Service Type: Facilities Maintenance Services.
Mandatory for: DISA, JITC, 4465 Indian Head Highway, Ely Building, Indian Head, MD.
Designated Source of Supply: Beacon Group, Inc., Tucson, AZ.
Contracting Activity: DEFENSE INFORMATION SYSTEMS AGENCY (DISA), IT CONTRACTING DIVISION—PL83.

Service Type: Facilities Maintenance Services.
Mandatory for: DISA, JITC, 6910 Cooper Avenue, Fort Meade, MD.
Designated Source of Supply: Beacon Group, Inc., Tucson, AZ.
Contracting Activity: DEFENSE INFORMATION SYSTEMS AGENCY (DISA), IT CONTRACTING DIVISION—PL83.

Service Type: Facilities Maintenance Services.
Mandatory for: DISA, JITC, 3341 Strauss Avenue, Building 900, Indian Head, MD.
Designated Source of Supply: Didlake, Inc., Manassas, VA.
Contracting Activity: DEFENSE

INFORMATION SYSTEMS AGENCY (DISA), DITCO–FT HUACHUCA PL65.

Service Type: Facilities Maintenance Services.

Mandatory for: DISA, JITC, 4465 Indian Head Highway, Ely Building, Indian Head, MD.

Designated Source of Supply: Didlake, Inc., Manassas, VA.

Contracting Activity: DEFENSE INFORMATION SYSTEMS AGENCY (DISA), DITCO–FT HUACHUCA PL65.

Service Type: Facilities Maintenance Services.

Mandatory for: DISA, JITC, 6910 Cooper Avenue, Fort Meade, MD.

Designated Source of Supply: Didlake, Inc., Manassas, VA.

Contracting Activity: DEFENSE INFORMATION SYSTEMS AGENCY (DISA), DITCO–FT HUACHUCA PL65.

Service Type: Laundry Service.

Mandatory for: US Air Force, Wright-Patterson Air Force Base Medical Center, Wright-Patterson AFB, OH, 4881 Sugar Maple Drive, Wright-Patterson AFB, OH.

Designated Source of Supply: Greene, Inc., Xenia, OH.

Contracting Activity: DEPT OF THE AIR FORCE, FA8601 AFLCMC PZIO.

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2021–17900 Filed 8–19–21; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0091]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; The College Assistance Migrant Program (CAMP) Annual Performance Report (APR)

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 September 20, 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 Christopher Hill, 202–453–6061.

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: The College Assistance Migrant Program (CAMP) Annual Performance Report (APR).

OMB Control Number: 1810–0727.

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: 50.

Total Estimated Number of Annual Burden Hours: 1,150.

Abstract: This is a request for an extension without change for the 1810–0727 College Assistance Migrant Program (CAMP) Annual Performance Report collection. The Office of Migrant Education (OME) is collecting information for the CAMP which is authorized under Title IV, Section 418A of the Higher Education Act of 1965, as amended by Section 408 of the Higher Education Opportunity Act (HEOA) (20 U.S.C. 1070d–2) (special programs for students whose families are engaged in migrant and seasonal farmwork) and 2 CFR 200.328 which requires that recipients of discretionary grants submit an Annual Performance Report (APR) to best inform improvements in program outcomes and productivity.

Although the Education Department continues to use the generic 524B, OME is requesting to continue the use of a customized APR that goes beyond the generic 524B APR to facilitate the collection of more standardized and comprehensive data to inform Government Performance Results Act (GPRA) indicators, to improve the overall quality of data collected, and to increase the quality of data that can be used to inform policy decisions.

Dated: August 17, 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. 2021–17921 Filed 8–19–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0090]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; High School Equivalency Program (HEP) Annual Performance Report

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 September 20, 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 Christopher Hill, 202–453–6061.

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: High School Equivalency Program (HEP) Annual Performance Report.

OMB Control Number: 1810–0684.

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: 51.

Total Estimated Number of Annual Burden Hours: 1,173.

Abstract: This is a request for an extension without change for the 1810–0684 High School Equivalency Program (HEP) Annual Performance Report collection. The Office of Migrant Education (OME) is collecting information for the High School Equivalency Program (HEP) which is authorized under Title IV, Section 418A of the Higher Education Act of 1965, as amended by Section 408 of the Higher Education Opportunity Act (HEOA)(20 U.S.C. 1070d–2) (special programs for students whose families are engaged in migrant and seasonal farmwork) and 2 CFR 200.328 which requires that recipients of discretionary grants submit an Annual Performance Report (APR) to best inform improvements in program outcomes and productivity.

Although the Education Department continues to use the generic 524B, OME is requesting to continue the use of a customized APR that goes beyond the generic 524B APR to facilitate the collection of more standardized and comprehensive data to inform Government Performance Results Act (GPRA) indicators, to improve the overall quality of data collected, and to increase the quality of data that can be used to inform policy decisions.

Dated: August 17, 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. 2021–17909 Filed 8–19–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–114–000.

Applicants: AES Corporation, Alberta Investment Management Corporation, Valcour Wind Energy, LLC, Valcour Altona Windpark, LLC, Valcour Bliss Windpark, LLC, Valcour Chateaugay Windpark, LLC, Valcour Clinton Windpark, LLC, Valcour Ellenburg Windpark, LLC, Valcour Wethersfield Windpark, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of AES Corporation, et al.

Filed Date: 8/13/21.

Accession Number: 20210813–5251.

Comment Date: 5 p.m. ET 9/3/21.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–220–000.

Applicants: PGR 2021 Lessee 5, LLC.

Description: Notice of Self-certification of Exempt Wholesale Generator Status of PGR 2021 Lessee 5, LLC.

Filed Date: 8/13/21.

Accession Number: 20210813–5154.

Comment Date: 5 p.m. ET 9/3/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER04–835–015.

Applicants: California Independent System Operator Corporation, Pacific Gas and Electric Company.

Description: Petition for Approval of Uncontested Settlement Agreement of California Independent System Operator Corporation, et al.

Filed Date: 8/13/21.

Accession Number: 20210813–5244.

Comment Date: 5 p.m. ET 9/3/21.

Docket Numbers: ER18–1639–012.

Applicants: Constellation Mystic Power, LLC.

Description: Compliance filing: Fifth Compliance Filing to be effective 6/1/2022.

Filed Date: 8/16/21.

Accession Number: 20210816–5161.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER20–2364–002.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2021–08–16_SA 3512 Compliance Filing NSP–NSP Sub FSA (J399) to be effective 7/7/2020.

Filed Date: 8/16/21.

Accession Number: 20210816–5155.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER20–2373–001.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2021–08–16_SA 3049 Compliance Filing NSP–NSP Sub 1st Rev GIA (J399) to be effective 7/7/2020.

Filed Date: 8/16/21.

Accession Number: 20210816–5139.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–1858–002.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: Tariff Amendment: CAPX2020–BRKGS–OMA–537–Supp Filing-0.1.2 to be effective 10/12/2021.

Filed Date: 8/13/21.

Accession Number: 20210813–5148.

Comment Date: 5 p.m. ET 9/3/21.

Docket Numbers: ER21–2677–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2021–08–13_MISO and SPP Compliance filing re Pseudo-Tie to be effective 3/31/2022.

Filed Date: 8/13/21.

Accession Number: 20210813–5145.

Comment Date: 5 p.m. ET 9/3/21.

Docket Numbers: ER21–2678–000.

Applicants: Westlands Transmission, LLC.

Description: Initial rate filing: Transmission Service Agreement with Westlands Solar Blue, LLC to be effective 10/13/2021.

Filed Date: 8/13/21.

Accession Number: 20210813–5156.

Comment Date: 5 p.m. ET 9/3/21.

Docket Numbers: ER21–2679–000.

Applicants: Westlands Transmission, LLC.

Description: Initial rate filing: Transmission Service Agreement with Westlands Grape, LLC to be effective 10/13/2021.

Filed Date: 8/13/21.

Accession Number: 20210813–5158.

Comment Date: 5 p.m. ET 9/3/21.

Docket Numbers: ER21–2680–000.

Applicants: Westlands Transmission, LLC.

Description: Initial rate filing: Transmission Service Agreement with Chestnut Westside, LLC to be effective 10/13/2021.

Filed Date: 8/13/21.

Accession Number: 20210813–5168.

Comment Date: 5 p.m. ET 9/3/21.

Docket Numbers: ER21–2681–000.

Applicants: Westlands Transmission, LLC.

Description: Initial rate filing: Transmission Service Agreement with Westlands Cherry, LLC to be effective 10/13/2021.

Filed Date: 8/13/21.

Accession Number: 20210813–5171.

Comment Date: 5 p.m. ET 9/3/21.

Docket Numbers: ER21–2682–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 250 to be effective 3/1/2021.

Filed Date: 8/13/21.

Accession Number: 20210813–5190.

Comment Date: 5 p.m. ET 9/3/21.

Docket Numbers: ER21–2683–000.

Applicants: Avista Corporation.

Description: Avista Corporation submits Average System Cost Filing for Sales of Electric Power to the Bonneville Power Administration, FY 2022–2023.

Filed Date: 8/12/21.

Accession Number: 20210812–5189.

Comment Date: 5 p.m. ET 9/2/21.

Docket Numbers: ER21–2684–000.

Applicants: NSTAR Electric Company.

Description: § 205(d) Rate Filing: Medway Grid, LLC—Engineering, Design and Procurement Agreement to be effective 8/17/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5039.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2685–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Sparta Solar 2nd A&R Generation Interconnection Agreement to be effective 8/3/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5041.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2686–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Monte Alto I 3rd A&R Generation Interconnection Agreement to be effective 8/3/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5049.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2687–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, SA No. 6130; Queue No. AG1–563 and Cancellation of SA No. 3503 to be effective 7/16/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5088.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2688–000.

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

Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii: AEP submits the Palmyra FA re: ILDSA SA No. 1336 to be effective 10/16/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5089.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2689–000.

Applicants: Lick Creek Solar, LLC.

Description: Baseline eTariff Filing: Lick Creek Solar, LLC MBR Tariff to be effective 8/17/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5117.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2690–000.

Applicants: PGR 2021 Lessee 5, LLC.

Description: Baseline eTariff Filing: PGR 2021 Lessee 5, LLC MBR Tariff to be effective 8/17/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5119.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2691–000.

Applicants: Alabama Power Company.

Description: Tariff Amendment: Origis Holdings USA Subco (Hammond II Solar & Storage) LGIA Termination Filing to be effective 8/16/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5126.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2692–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–08–16_TOA Affiliate Sector Participation Framework to be effective 10/16/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5129.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2693–000.

Applicants: Midcontinent Independent System Operator, Inc., Entergy Services, LLC.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2021–08–16_Entergy Att O Clean Up Filing to be effective 10/16/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5144.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2694–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Third Revised ISA, SA No. 5481; Queue No. AF1–014 to be effective 7/16/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5154.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21–2695–000.

Applicants: Lincoln Land Wind, LLC.

Description: Baseline eTariff Filing: Reactive Power Tariff Application to be effective 11/1/2021.

Filed Date: 8/16/21.

Accession Number: 20210816–5163.

Comment Date: 5 p.m. ET 9/7/21.

Take notice that the Commission received the following electric reliability filings:.

Docket Numbers: RR21–7–000.

Applicants: North American Electric Reliability Corporation.

Description: Petition of the North American Electric Reliability Corporation for Approval of Amendments to the Midwest Reliability Organization Regional Reliability Standards Process Manual.

Filed Date: 8/16/21.

Accession Number: 20210816–5105.

Comment Date: 5 p.m. ET 9/7/21.

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: August 16, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–17898 Filed 8–19–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2021–0068; FRL–8732–02–OCSPP]

Certain New Chemicals; Receipt and Status Information for July 2021

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to make information publicly available and to publish information in the **Federal Register** pertaining to certain submissions under TSCA, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN) or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 07/01/2021 to 07/31/2021.

DATES: Comments identified by the specific case number provided in this document must be received on or before September 20, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2021–0068 and the specific case number for the chemical substance related to your comment, using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

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

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@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. Executive Summary

A. What action is the Agency taking?

This document provides the receipt and status reports for the period from 07/01/2021 to 07/31/2021. The Agency is providing notice of receipt of PMNs, SNUNs and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

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

Under TSCA, 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (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.*

II. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and an opportunity to comment (See 60 FR 25798, May 12, 1995 (FRL–4942–7)). Since the passage of amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.,* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 07/01/2021 TO 07/31/2021

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–21–0019A	4	07/12/2021	CBI	(G) Production of DNA for use in internal manufacturing.	(G) Strain of Escherichia coli modified with genetically-stable, plasmid-borne DNA for the production of plasmid-borne DNA.
P–19–0160A	4	07/21/2021	CBI	(S) Component of a UV curable printing ink.	(G) Alkanesulfonic acid, 2-[(2-aminoethyl)heteroatom-substituted]-, sodium salt (1:1), polymer with alpha-[2,2-bis(hydroxymethyl)butyl]-omega-methoxypoly(oxy-1,2-ethanediyl) and 1,1′-methylenebis[4-isocyanatocyclohexane], acrylic acid-dipenthaerythritol reaction products- and polypropylene glycol ether with pentaerythritol (4:1) triacrylate-blocked.
P–19–0165A	5	07/06/2021	Arboris, LLC	(G) Plasticizer in rubber, Additive for asphalt..	(G) Tall oil pitch, fraction, sterol-low.
P–20–0071A	10	06/30/2021	CBI	(G) Colorant	(G) Salt of 2-Naphthalenesulfonic acid, hydroxy [(methoxy-methyl-4-sulfophenyl)diazenyl].
P–20–0078A	8	06/29/2021	Ascend Performance Materials.	(G) Stabilizer for industrial applications	(G) Dicarboxylic acid, compd. with aminoalkyl-alkyldiamine alkyldioate alkyldioate (1:2:1:1).
P–20–0079A	8	06/29/2021	Ascend Performance Materials.	(G) Stabilizer for industrial applications	(G) Dicarboxylic acid, compd. with aminoalkyl-alkyldiamine (3:2).
P–20–0080A	11	06/29/2021	Ascend Performance Materials.	(G) Stabilizer for industrial applications	(G) Alkyldiamine, aminoalkyl-, hydrochloride (1:3).
P–20–0081A	11	06/29/2021	Ascend Performance Materials.	(G) A stabilizer for industrial applications.	(G) Carboxylic acid, compd. with aminoalkyl-alkyldiamine (3:1).
P–20–0082A	11	06/29/2021	Ascend Performance Materials.	(G) Stabilizer for industrial applications	(G) Alkyldiamine, aminoalkyl-, carboxylate (1:3).
P–20–0148A	9	07/22/2021	Solugen Inc	(G) Additive for consumer, industrial, and commercial uses.	(G) Hydroxyalkanoic acid, salt, oxidized.
P–20–0149A	9	07/22/2021	Solugen Inc	(G) Additive for consumer, industrial, and commercial uses.	(G) Hydroxyalkanoic acid, salt, oxidized.
P–20–0150A	9	07/22/2021	Solugen Inc	(G) Additive for consumer, industrial, and commercial uses.	(G) Hydroxyalkanoic acid, salt, oxidized.
P–20–0151A	9	07/22/2021	Solugen Inc	(G) Additive for consumer, industrial, and commercial uses.	(G) Hydroxyalkanoic acid, salt, oxidized.
P–20–0175A	5	07/16/2021	CBI	(G) Proprietary Additive for WB&P, Slats & CR, PI Formulation.	(G) acid N-[4-(4-diarylalkyl]-, carbopolycyclic alkenyl, methyl ester.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 07/01/2021 TO 07/31/2021—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–20–0176A	5	07/16/2021	CBI	(G) Proprietary Additive for WB&P, Slats & CR, PI Formulation.	(G) acid N-(diarylalkyl)-, carbopolycyclic alkenyl, methyl ester.
P–20–0177A	5	07/16/2021	CBI	(G) Proprietary Additive for WB&P, Slats & CR, PI Formulation.	(G) carbopolycyclic alkenyl, 2-carboxylic acid, 2-[[[4-(4-diarylalkyl)]carbonyl]oxy]ethyl ester.
P–20–0178A.	5	07/16/2021	CBI	(G) Proprietary Additive for WB&P, Slats & CR, PI Formulation.	(G) carbopolycyclic alkenyl, 2-carboxylic acid, 2-[[[(diarylalkyl)]carbonyl]oxy]ethyl ester.
P–21–0049A	2	07/16/2021	CBI	(G) Monomer	(G) Alkanoic acid, polyhalo-(halo-oxo-alkenyl)oxyalkyl ester.
P–21–0050A	2	07/16/2021	CBI	(G) Monomer	(G) Alkenoic acid, halo-polylhaloalkyl ester.
P–21–0109A	5	06/30/2021	Chevron EL Segundo refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, light alkylate.
P–21–0110A	5	06/30/2021	Chevron EL Segundo refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, light catalytic cracked.
P–21–0111A	5	06/30/2021	Chevron EL Segundo refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, heavy catalytic cracked.
P–21–0112A	5	06/30/2021	Chevron EL Segundo refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, light hydrocracked.
P–21–0113A	5	06/30/2021	Chevron EL Segundo refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, isomerization.
P–21–0114A	5	06/30/2021	Chevron EL Segundo refinery.	(G) Component in fuels	(G) Hydrocarbons linear and branched, heavy catalytic reformed.
P–21–0133A	4	07/14/2021	CBI	(S) Chemical Intermediate	(G) Distillation bottoms from manufacture of alkanoic acid by organic acid-producing organism, modified.
P–21–0144A	2	07/19/2021	Chevron	(G) Gasoline	(G) Naphtha, heavy catalytic cracked.
P–21–0145A	2	07/19/2021	Chevron	(G) Gasoline	(G) Naphtha, heavy alkylate.
P–21–0146A	2	07/19/2021	Chevron	(G) Gasoline	(G) Naphtha, full range alkylate, butane-contg.
P–21–0147A	2	07/19/2021	Chevron	(G) Gasoline	(G) Naphtha, hydrotreated heavy.
P–21–0148A	3	07/22/2021	Chevron	(G) Gasoline	(G) Naphtha, light catalytic cracked.
P–21–0149A	3	07/22/2021	Chevron	(G) Aviation gasoline	(G) Naphtha, light alkylate.
P–21–0150A	3	07/22/2021	Chevron	(G) Gasoline	(G) Naphtha, hydrotreated light.
P–21–0152A	4	07/22/2021	Chevron	(G) Marine fuel	(G) Clarified oils, catalytic cracked.
P–21–0153A	4	07/22/2021	Chevron	(G) Chemical intermediate	(G) Distillates, hydrotreated heavy.
P–21–0154A	4	07/22/2021	Chevron	(G) Chemical intermediate	(G) Gas Oils hydrotreated vacuum.
P–21–0155A	3	07/22/2021	Chevron	(G) Diesel fuel	(G) Distillates, light catalytic cracked.
P–21–0156A	3	07/22/2021	Chevron	(G) Jet fuel	(G) Distillates, clay-treated middle.
P–21–0157A	3	07/22/2021	Chevron	(G) Diesel fuel	(G) Distillates, hydrotreated middle.
P–21–0158A	3	07/22/2021	Chevron	(G) Jet fuel	(G) Distillates, hydrotreated light.
P–21–0159A	4	07/22/2021	Chevron	(G) Chemical intermediate	(G) Gases, C3–C4.
P–21–0160A	4	07/22/2021	Chevron	(G) Chemical intermediate	(G) Gases, C4-rich.
P–21–0161A	4	07/22/2021	Chevron	(G) Chemical intermediate	(G) Gases, catalytic cracking.
P–21–0162A	4	07/22/2021	Chevron	(G) Chemical intermediate	(G) Residues, butane splitter bottoms.
P–21–0163A	4	07/22/2021	Chevron	(G) Chemical intermediate	(G) Tail gas, saturate gas plant mixed stream, C4-rich.
P–21–0168	1	06/15/2021	Epson America, Inc	(G) Colorant	(G) Metal, [heteropolycyclic]-, [[[(hydroxyalkyl)amino]sulfonyl]alkyl]sulfonyl(sulfoalkyl)sulfonyl derivs., ammonium sodium salts.
P–21–0170	3	07/21/2021	Oxford Biomedical Research, Inc.	(G) This dye changes from dark blue with new frying oil, to light yellow with used/bad frying oil.	(G) 2,6-Bis(dialkyl)-4-[2-(1-alkyl-4(1H)-pyridinylidene)alkylidene]-2,5-cycloalkyladien-1-one.
P–21–0171	5	07/14/2021	CBI	(S) Surfactant	(G) Oxirane, methyl-, polymer with oxirane, alkyl ether carboxylates, Alkyl ether acetate,.
P–21–0173	2	07/07/2021	ICM Products Inc.	(G) Additive for finishing of textiles/fabrics.	(G) Siloxanes and silicones polyether, polymer with aliphatic isocyanate, 2-dimethylaminoethanol and polyglycol ether.
P–21–0177	2	07/12/2021	CBI	(G) Photolithography	(G) Sulfonium, monocarbocyclicbisarylpolyhaloalkyl, alpha, alpha, beta, beta-polyhalopolyhydro-2,2-diaryl-4,7-methano-1,3-heteropolycyclic-5-alkanesulfonate (1:1).
P–21–0180	2	07/01/2021	Shin-etsu microsi	(G) Contained use for microlithography for electronic device manufacturing.	(G) Sulfonium, (halocarbomonocycle)diphenyl-, salt with 1-heterosubstituted-2-methylalkyl trihalobenzoate (1:1).
P–21–0181	2	07/12/2021	CBI	(G) Color developer	(G) 1,3-Benzenedicarboxamide, N1,N3-bis(carbomonocyclic)-5-[[(carbomonocyclic)amino]sulfonyl]-.
P–21–0182	1	06/29/2021	CBI	(S) Chemical intermediate	(G) Distillation bottoms from manufacture of alkanoic acid by organic acid-producing organism.
P–21–0182A	2	07/14/2021	CBI	(S) Chemical intermediate	(G) Distillation bottoms from manufacture of alkanoic acid by organic acid-producing organism.
P–21–0183	1	06/29/2021	CBI	(S) Chemical intermediate	(G) Distillation bottoms from manufacture of alkanoic acid by organic acid-producing organism, modified.
P–21–0183A	2	07/14/2021	CBI	(S) Chemical intermediate	(G) Distillation bottoms from manufacture of alkanoic acid by organic acid-producing organism, modified.
P–21–0184	2	07/14/2021	CBI	(G) Asphalt emulsion applications	(S) Fatty acids, Soya, reaction products with ammonia-ethanolamine reaction by-products.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 07/01/2021 TO 07/31/2021—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–21–0185	4	07/07/2021	CBI	(S) The notified substance will be used as a fragrance ingredient, being blended (mixed) with other fragrance.	(G) Ethyl Cyclohexenyl Propionate;(G) Ethyl Cyclohexenyl Propionate;.
P–21–0186	2	07/20/2021	Tetramer Technologies, LLC.	(G) Component in lubricants	(G) glycerin, alkoxylated alkyl acid esters.
P–21–0187	2	07/20/2021	Tetramer Technologies, LLC.	(G) Component in lubricants	(G) glycerin, alkoxylated alkyl acid esters.
P–21–0188	1	07/12/2021	CBI	(S) Polymer intermediate	(G) 2-Propenoic acid, 2-methyl-, polymer with 2-propenoic acid and phosphinate salt, peroxy-initiated.
P–21–0189	2	07/16/2021	Renewable energy group.	(S) Feedstock used in the production of biomass based diesel.	(S) Fats and Glyceridic oils, algae.
P–21–0190	1	07/13/2021	Santolubes Manufacturing LLC.	(S) Synthetic engine, gear and lubricating oils and greases.	(S) Poly(oxy-1,2-ethanediyl)-alpha-(1-oxohexyl)-omega-[(1-oxohexyl)oxy]-.
P–21–0191	1	07/13/2021	Santolubes Manufacturing LLC.	(S) Synthetic engine, gear and lubricating oils and greases.	(S) Fatty acids, C18-unsatd., dimers, hydrogenated, polymers with polyethylene glycol, dihexanoates.
P–21–0192	1	07/13/2021	Santolubes Manufacturing LLC.	(S) Synthetic engine, gear and lubricating oils and greases.	(S) Fatty acids, C18-unsatd., dimers, hydrogenated, polymers with polyethylene glycol, diesters with C8–10 fatty acids.
P–21–0193	2	07/16/2021	Santolubes Manufacturing LLC.	(S) Synthetic engine, gear and lubricating oils and greases.	(S) Fatty acids, C8–10, diesters with polyethylene glycol.
P–21–0194	1	07/14/2021	Rudolf Venture Chemical.	(S) Textile softening agent	(G) Siloxanes and Silicones, di-Me, [gluconoylamino)alkyl]dialkylammonio]-hydroxyalkoxy]alkyl group-terminated, (salts).
P–21–0196	1	07/21/2021	CBI	(S) Additive for use in battery electrolyte formulations.	(G) Oxathiole, oxide.
P–21–0197	1	07/22/2021	Ultium Cells LLC	(S) Additive for use in battery electrolyte formulations.	(G) Imidazole-carboxylic acid, substituted.
P–21–0198	1	07/22/2021	H.B. Fuller Company	(S) Hot melt moisture cure adhesive for the industrial Floor & Door industry.	(G) Reaction product of polyester with alpha-hydro-omega-hydroxypoly(oxy-1,4-butanediyl) and 1,1′-methylenebis[isocyanatobenzene].
SN–21–0005	2	07/21/2021	CBI	(G) Dielectric medium	(S) Propanenitrile, 2,3,3,3-tetrafluoro-2-(trifluoromethyl)-.
SN–21–0010A	2	07/06/2021	CBI	(G) Additive used in coatings	(G) 2-Oxepanone, reaction products with alkylenediamine-alkyleneimine polymer, 2-[[(2-alkyl)oxy]alkyl]oxirane and tetrahydro-2H-pyran-2-one.
SN–21–0011	2	07/14/2021	CBI	(G) Solvent	(S) 2-Propanol, 1-[bis(2-hydroxyethyl)amino]-.

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission prior to the start of the 90 day review period, and in no way reflects the final status of a complete submission review.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 07/01/2021 TO 07/31/2021

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–00–0063	07/06/2021	01/01/2012	N	(G) Zinc salt of thioorganic compound.
P–17–0178	07/08/2021	07/03/2021	N	(G) Sulfonium, triphenyl-, salt with substituted-alkyl 4-substituted-benzoate,.
P–18–0013	07/08/2021	06/30/2021	N	(G) Substituted-triphenylsulfonium, inner salt,.
P–18–0298	07/22/2021	06/29/2021	N	(G) 1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-, polymer with n1,n2-bis(2-aminoethyl)-1,2-ethanediamine, 2-(chloromethyl)oxirane, 2-[[4-(1,1-dimethylethyl)phenoxy]methyl]oxirane, 2,2′-[1,6-hexanediylbis(oxymethylene)]bis[oxirane], 4,4′-(1-methylethylidene)bis[phenol], alkyl ether amine, and 2-[(2-methylphenoxy methyl]oxirane.
P–19–0054	07/01/2021	06/22/2021	N	(G) Polyamines, reaction products with succinic anhydride polyalkenyl derivs., metal salts.
P–19–0079	07/08/2021	06/30/2021	N	(G) Substituted heterocyclic onium compound, salt with 2,2,2-trifluoro-1-(sulfomethyl)-1-(trifluoromethyl)ethyl 3-[(2-methyl-1-oxo-2-propen-1-yl)oxy]tricyclo[3.3.1.13,7]decane-1-carboxylate (1:1), polymer with acenaphthylene, 1-ethenyl-4-[[1-(1-methylethyl)cyclopentyl]oxy]benzene and 4-ethenylphenol, di-me 2,2′-(1,2-diazenediyl)bis[2-methylpropanoate]-initiated,.

TABLE II—NOCS APPROVED * FROM 07/01/2021 TO 07/31/2021—Continued

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
P–19–0133	07/08/2021	07/03/2021	N	(G) Heterotrisubstituted-bile acid, 1-(difluorosulfomethyl)-2,2,2-trifluoroethyl ester, ion(1-), (5)-, triphenylsulfonium (1:1),.
P–20–0153	06/29/2021	06/15/2021	N	(S) Amines, polyethylenepoly-, reaction products with succinic anhydride polyisobutenyl derivs., borated.
P–20–0154	06/29/2021	06/15/2021	N	(S) 2,5-furandione, dihydro-, polyisobutenyl derivs., reaction products with triethylenetetramine, borated.
P–21–0020	07/30/2021	07/29/2021	N	(G) Alkanedioic acid, dialkyl ester, polymer with dialkyl-alkanediol, alkyl(substituted alkyl)-alkanediol and heteropolycycle.

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 07/01/2021 TO 07/31/2021

Case No.	Received date	Type of test information	Chemical substance
P–14–0712	07/09/2021	Quarterly PCDD/F Test of PMN Substance using EPA Test Method 8290A.	(G) Plastics, wastes, pyrolyzed, bulk pyrolysate.
P–14–0712	07/09/2021	Quarterly PCDD/F Test of PMN Substance using EPA Test Method 8290A.	(G) Plastics, wastes, pyrolyzed, bulk pyrolysate.
P–16–0462	07/27/2021	Quarter 2 Metals Report	(G) Silane-treated aluminosilicate.
P–16–0543	06/29/2021	Exposure Monitoring Report May 2021	(G) Halogenophosphoric acid metal salt.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

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

Dated: August 12, 2021.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2021–17893 Filed 8–19–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9057–9]

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 August 9, 2021 10 a.m. EST

Through August 16, 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. 20210117, Draft, NOAA, CA, Amendment 6 to the Fishery Management Plan for West Coast Highly Migratory Species Fisheries: Authorization of Deep-set Buoy Gear, Comment Period Ends: 10/04/2021, Contact: Amber Rhodes 562–477–8342.

EIS No. 20210118, Draft Supplement, NHTSA, REG, Model Year 2024–2026 Corporate Average Fuel Economy Standards, Comment Period Ends: 10/04/2021, Contact: Vinay Nagabhushana 202–366–1452.

EIS No. 20210119, Final, AZDOT, AZ, North-South Corridor Study Tier 1, Contact: Katie Rodriguez 480–521–8887.

Under 23 U.S.C. 139(n)(2), AZDOT 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. 20210120, Final, BLM, NV, Relief Canyon Mine Project, Review Period Ends: 09/20/2021, Contact: Jeanette Black 775–623–1500.

EIS No. 20210121, Final, BOEM, MA, South Fork Wind Farm and South Fork Export Cable Project, Review Period Ends: 09/20/2021, Contact: Michelle Morin 703–787–1722.

Dated: August 16, 2021.

Candi Schaedle,

Acting Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2021–17868 Filed 8–19–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–SFUND–2004–0006; FRL 8815–01–OLEM]

Proposed Information Collection Request; Comment Request: Community Right-to-Know Reporting Requirements Under Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA), EPA ICR Number 1352.16, OMB Control Number 2050–0072

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Community Right-to-Know Reporting

Requirements under Sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA),'' (EPA ICR Number 1352.16, OMB Control Number 2050–0072) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described in **SUPPLEMENTARY INFORMATION**. This is a proposed extension of the ICR, which is currently approved through March 31, 2022. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before October 19, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–SFUND–2004–0006, to: (1) EPA online using *www.regulations.gov* (our preferred method), by email to *superfund.docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Wendy Hoffman, Office of Emergency Management, Mail Code 5104A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–8794; email address: *hoffman.wendy@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *http://www.regulations.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room is closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For further information about the EPA's public docket, Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.* The telephone number for the Docket Center is 202–566–1744.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The authority for these requirements is sections 311 and 312 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (42 U.S.C. 11011, 11012). EPCRA section 311 requires owners and operators of facilities subject to the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (HCS) to submit a list of chemicals or Material Safety Data Sheets (MSDSs) (for those chemicals that exceed thresholds, specified in 40 CFR part 370) to the State Emergency Response Commission (SERC) or Tribal Emergency Response Commission (TERC), Local Emergency Planning Committee (LEPC) or Tribal Emergency Planning Committee (TEPC), and the local fire department (LFD) with jurisdiction over their facility. This is a one-time requirement unless a facility becomes subject to the regulations or has updated information on the hazardous chemicals that were already submitted by the facility. EPCRA section 312 requires owners and operators of facilities subject to the OSHA HCS to submit an inventory form (for those chemicals that exceed the thresholds, specified in 40 CFR part 370) to the SERC (or TERC), LEPC (or TEPC), and LFD with jurisdiction over their facility. This inventory form, the Tier II Emergency and Hazardous Chemical Inventory Form, is to be submitted on or before March 1 of each year and must include the inventory of hazardous chemicals present at the facility in the previous calendar year. Currently, all states require facilities to submit the Federal Tier II form or the state-equivalent, including electronic submission.

The burden estimates, numbers and types of respondents, wage rates and unit and total costs for this ICR renewal will be revised and updated if needed during the 60-day comment period while the ICR Supporting Statement is undergoing review at OMB.

Form Numbers: Tier II Emergency and Hazardous Chemical Inventory Form, EPA Form No. 8700–30.

Respondents/affected entities: Entities potentially affected by this ICR are manufacturers and non-manufacturers required to have available a MSDS (or Safety Data Sheet (SDS)) under the OSHA HCS.

Respondent's obligation to respond: Mandatory (sections 311 and 312 of EPCRA).

Estimated number of respondents: 465,692. This figure includes 3,052 LEPCs and SERCs and will be updated as needed during the 60-day OMB review period.

Frequency of response: Annual.

Total estimated burden: 6,825,633 hours (per year) (includes LEPCs and SERCs). This figure will be updated as needed during the 60-day OMB review period. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $312,284,992 (per year), includes annualized capital or operation & maintenance costs. This figure will be updated to account for any changes in O&M costs, burden and number of respondents during the 60-day OMB review period.

Changes in Estimates: Changes in estimated costs are attributable to updated wage rates and a reduction in O&M costs. Any additional change in burden or cost resulting from the 60-day OMB review period will be described and explained in this section when the updated ICR Supporting Statement is completed.

Donna Salyer,

Director, Office of Emergency Management.

[FR Doc. 2021–17903 Filed 8–19–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than September 20, 2021.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *South State Corporation, Winter Haven, Florida;* to merge with Atlantic Capital Bancshares, Inc., and thereby indirectly acquire Atlantic Capital Bank, National Association, both of Atlanta, Georgia.

Board of Governors of the Federal Reserve System, August 17, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–17914 Filed 8–19–21; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice–ID–2021–02; Docket No. 2021–0002; Sequence No. 7]

Privacy Act of 1974; Modify System of Records Notice

AGENCY: General Services Administration, (GSA).

ACTION: Notice.

SUMMARY: GSA proposes to modify a system of records subject to the Privacy Act of 1974, as amended.

DATES: Applicable: September 20, 2021.

FOR FURTHER INFORMATION CONTACT: Call or email the GSA Chief Privacy Officer: telephone 202–322–8246; email *gsa.privacyact@gsa.gov.*

ADDRESSES: Submit comments identified by ''Notice-ID–2021–02, Modify System of Records'' via *http://www.regulations.gov.* Search *regulations.gov* for Notice-ID–2021–02, Modified System of Records Notice. Select the link ''Comment'' that corresponds with ''Notice-ID–2021–02, Modified System of Records Notice.'' Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Notice-ID–2021–02, Modified System of Records Notice'' on your attached document. If your comment cannot be submitted using *regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

SUPPLEMENTARY INFORMATION: GSA proposes to modify a system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a. The system will provide for the collection of information to track and manage the Art in Architecture program, the National Artist Registry and the fine arts collection. The Design Excellence program, within the Office of the Chief Architect, is now also using The Museum System (TMS) to manage the Peer Program. The privacy information within the system will be accessed and used by GSA employees in the Art in Architecture, Fine Arts and the Design Excellence programs.

Richard Speidel,

Chief Privacy Officer, Office of the Deputy Chief Information Officer, General Services Administration.

SYSTEM NAME:

GSA/PBS–7 (The Museum System—TMS)

SYSTEM LOCATION:

The system is maintained for GSA under contract, and the records are maintained in electronic form. The system and records are located at the vendor location in RTP Data Center (GSA Building Code NC9999), 109 T.W. Alexander Drive, Research Triangle Park, NC 27711.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals in the Art in Architecture, Fine Arts, and the Design Excellence programs, including those in the fine arts collection, and in the National Artist Registry, and the Design Excellence Peer Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information needed for managing the Art in Architecture, Fine Arts, and the Design Excellence Peer programs, which includes access to information on artists represented in the fine arts collection, artists in the National Registry, and participants in the Design Excellence Peer program. Records may include but are not limited to: (1) Biographical data such as name, birth date, and educational level; and (2) contact information such as telephone number, street address and email address.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 501 *et seq.,* Federal Management Regulation § 102–76.10.

PURPOSE:

To establish and maintain an electronic system to manage and track all details pertaining to the full life cycle of Art in Architecture projects and manage the National Artist Registry, and the Design Excellence Peer program in support of the Art in Architecture program. The system will also support the PBS Fine Arts program to safeguard the fine arts collection against waste, loss and unauthorized use or misappropriation.

ROUTINE USES OF THE SYSTEM RECORDS, INCLUDING CATEGORIES OF USERS AND THEIR PURPOSES FOR USING THE SYSTEM.

System information may be accessed and used by employees of the Art in Architecture and Fine Art, and the Design Excellence Peer programs to manage, track, verify, and update system information.

Information from this system also may be disclosed as a routine use:

a. In any legal proceeding, where pertinent, to which GSA, a GSA employee, or the United States is a party before a court or administrative body.

b. To a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order when GSA becomes aware of a violation or

potential violation of civil or criminal law or regulation.

c. To an appeal, grievance, hearing, or complaints examiner; an equal employment opportunity investigator, arbitrator, or mediator; and an exclusive representative or other person authorized to investigate or settle a grievance, complaint, or appeal filed by an individual who is the subject of the record.

d. To the Office of Personnel Management (OPM), the Office of Management and Budget (OMB), and the Government Accountability Office (GAO) in accordance with their responsibilities for evaluating Federal programs.

e. To a Member of Congress or his or her staff on behalf of and at the request of the individual who is the subject of the record.

f. To an expert, consultant, or contractor of GSA in the performance of a Federal duty to which the information is relevant.

g. To the National Archives and Records Administration (NARA) for records management purposes.

h. Consistent with professional practices in other arts institutions, nationality and year of birth may be disclosed to the public when relevant to an artist's work.

i. To appropriate agencies, entities, and persons when (1) GSA suspects or has confirmed that there has been a breach of the system of records, (2) GSA has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, GSA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with GSA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

j. To another Federal agency or Federal entity, when GSA determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, AND RETAINING, AND DISPOSING OF SYSTEM RECORDS: STORAGE:

All records are stored electronically.

RETRIEVABILITY:

Records are retrievable based on any information captured, including but not limited to: Name, date of birth, place of birth, and current address.

SAFEGUARDS:

System records are safeguarded in accordance with the requirements of the Privacy Act. Access is limited to authorized individuals with passwords, and the database is maintained behind a firewall certified by the National Computer Security Association.

RETENTION AND DISPOSAL:

121.1/011 Durable Property Records.

This series contains records of both federally-owned and leased buildings used to document standing arrangements with local entities, and reference documents for ongoing management and planning and/or improvements to the properties. These records are maintained for compliance and often included in the design specifications for construction and other improvement projects throughout the property's lifecycle. These records include permits, easements, agreements, commissioning and dedication documents, building evaluation and construction program planning records for that building, records related to environmental safety, fire, life, and security of the property, routine property evaluation and disposal case files, and related records.

Retention: Temporary. Cut off at the end of the fiscal year when building is sold, transferred, closed, or otherwise disposed of. Destroy 10 years after cutoff.

Legal Authority: DAA–0121–2015–0001–0002 (121.1/011).

121.1/040 Significant Art Inventory Records.

This series contains records used in identifying items within the building that are removable or replaceable, or have a significant historical and/or architectural value. For art associated with a building (such as statuary, paintings, and architectural features), records such as inventories, case files, art maintenance records, art appraisals and art restoration documents and related materials are included.

Retention: Permanent. Cut off at the end of the fiscal year when the case file is closed, the artifact is destroyed, transferred, or otherwise de-accessioned. Transfer to NARA 15 years after cutoff.

Legal Authority: DAA–0121–2015–0001–0007 (121.1/040).

121.1/041 Routine Equipment and Art Inventory Records.

This series contains records used in identifying equipment and items within the building that are removable or replaceable. Included are inventories of heating, electrical, plumbing, and air handling equipment, vertical transportation equipment and records related to recording the condition, maintenance, and associated schedules, documentation, and schematics for that equipment. For managing statuary, paintings, and architectural features associated with a building, records include routine correspondence and maintenance reports, exhibition and curated collections management documents, proposal submissions, and other records not filed under 121.1/040—Significant Art Inventory Records.

Retention: Temporary. Cut off at the end of the fiscal year when art or equipment has been deaccessioned, obsolete, or superseded, a case file is closed, or when related documents expire. Destroy 5 fiscal years after cutoff.

Legal Authority: DAA–0121–2015–0001–0008 (121.1/041).

121.4/010 Significant Buildings Program Records.

This series contains records used to assess and plan the PBS program with regard to its owned and leased inventory, the overall programs managed in service to that inventory, and the decisions made based on that information. ''Significant'' records mean those records that reflect the Public Building Service program as a whole, nationwide compilations or negotiations, and general documents related to the entire program. Such records include agreements with national agencies regarding services, environmental, safety, property use, and disposal activity evaluations, compiled reports, strategic plans, service-wide correspondence, and annual reports on the program.

Retention: Permanent. Cut off at the end of the fiscal year after publishing of the report, termination of an agreement, or when record is superseded, canceled, or obsolete. Transfer to NARA 15 years after cutoff.

Legal Authority: DAA–0121–2015–0001–0017 (121.4/010).

121.4/011 Routine Buildings Program Records.

This series contains resource materials used to assess the PBS program in general, and supports the records created in 121.4/010. Included in this series are such records as summary reports on building and property portfolio assets, space planning, acquisition, regional and national commercial real estate analyses, and related program management reports and initiative records.

Retention: Temporary. Cut off at the end of the fiscal year after publishing of the report, termination of an agreement, or when record is superseded, canceled, or obsolete. Destroy 10 years after cutoff.

Legal Authority: DAA–0121–2015–0001–0018 (121.4/011).

SYSTEM MANAGER AND ADDRESS:

Systems Development Division, Public Building Service, General Services Administration, 1800 F Street NW, Washington, DC 20405.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if the system contains information about them should contact the system manager at the above address.

RECORD ACCESS PROCEDURES:

Individuals wishing to access their own records should contact the system manager at the address above.

CONTESTING RECORD PROCEDURE:

Individuals wishing to amend their records should contact the system manager at the address above.

RECORD SOURCE CATEGORIES:

The sources for information in the system are data from legacy systems, information submitted by individuals or their representatives, information gathered from public sources and information from the GSA staff directory.

HISTORY:

73 FR 22414.

[FR Doc. 2021–17901 Filed 8–19–21; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–21–21HJ; Docket No. CDC–2021–0085]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Field Pilot to Inform the Development of a NIOSH Training Product, the Safety Skills at Work Curriculum. The purpose of this field pilot is to inform the development of a draft foundational OSH training intervention, the *Safety Skills at Work* curriculum, as well as the study methods and data collection instruments for the evaluation of the intervention.

DATES: CDC must receive written comments on or before October 19, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0085 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;
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; and
5. Assess information collection costs.

Proposed Project

Field Pilot to Inform the Development of a NIOSH Training Product, the Safety Skills at Work Curriculum—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Prevention and Control (CDC).

Background and Brief Description

The National Institute for Occupational Safety and Health (NIOSH) is requesting approval of a new draft data collection for a period of two years under the project titled Field Pilot to Inform the Development of a NIOSH Training Product, the Safety Skills at Work Curriculum. The goal of the proposed field pilot is to inform the development of a draft foundational occupational safety and health (OSH) training intervention, the *Safety Skills at Work* curriculum, as well as the development of the methods and data collection instruments for the evaluation of the intervention. The proposed field pilot will be conducted through a collaborative partnership with the Pacific Mountain Workforce Development Council (PacMtn WDC), a workforce development organization in Washington State. PacMtn WDC will recruit 72 participants split into 4–6 cohorts with 12–18 participants per cohort. For each cohort, the draft curriculum will be administered to 6–9 participants (training group) and an online survey will be administered to the training group as well as a group of 6–9 participants who do not receive the training (comparison group) at three

time points: Pre (before the training), post (after the training), and follow-up (4–6 weeks after the training). The survey will assess; (1) foundational OSH knowledge; (2) OSH attitudes; (3) self-efficacy for OSH; (4) behavioral intention to use newly learned OSH skills; (5) OSH training perceptions; and (6) job safety perceptions. Basic demographics and work experience information will also be collected from field pilot participants, but no sensitive or personally identifiable information (PII) will be collected by NIOSH. Participants in the training group will be asked to provide reactions to the training during brief post-training feedback sessions, and this data will be audio recorded. This field pilot will follow the CDC COVID–19 interim guidance for research activities, including in-person activities, in place at the time of the activity. This data collection will serve as a first step in addressing the need for evidence-based, foundational OSH training programs for the workforce development sector, and is aligned with the National Occupational Research Agenda (NORA) Healthy Work Design and Well-Being, Services, and Manufacturing goals related to promoting OSH among contingent workers.

As part of the proposed field pilot, NIOSH will administer three online surveys (pre, post, and follow-up) to 72 workforce development program participants, and the two trained PacMtn WDC will conduct post-training feedback sessions with the 36 training group participants after each training session. Each survey will take approximately 30 minutes to complete, for a total of 90 minutes per participant to complete all three surveys. The training will take three hours and 20 minutes to administer, and the post training feedback session will take 10 minutes to complete.

CDC requests approval for an estimated 43 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Workforce development program participant	Pre-survey	34	1	30/60	17
Workforce development program participant	Post-survey	29	1	30/60	15
Workforce development program participant	Follow-up Survey	15	1	30/60	8
Workforce development program participant	Post training feedback session.	18	1	10/60	3
Total					43

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–17864 Filed 8–19–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–21–21HI; Docket No. CDC–2021–0086]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Red Carpet Entry (RCE) Program Implementation Project. This study will prepare for, implement, and evaluate an implementation model of linkage and reengagement to HIV care via a toolkit.

DATES: CDC must receive written comments on or before October 19, 2021.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2021–0086 by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

Please note: Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (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. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;

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; and

5. Assess information collection costs.

Proposed Project

Red Carpet Entry (RCE) Program Implementation Project—New—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

This project involves original, implementation research on the Red Carpet Entry (RCE) Program to link persons with HIV to care within 72 hours of their diagnosis or their return to care after being out of care. Originally developed and implemented in Washington DC by Whitman Walker Health and the DC Department of Health's HIV/AIDS, Hepatitis, STD, and TB Administration, Red Carpet Entry (RCE) has been shown to successfully and rapidly link people who tested HIV positive to an HIV care provider. Evaluations of RCE found that 70% of newly diagnosed people were linked to care within 72 hours of their HIV test. It was also shown to work for linking people who had fallen out of care with an HIV provider. An adapted version of RCE has also been shown to improve health outcomes among adolescents and youths in Kenya by quickly linking to care. The school-based program increased rates of linkage to care from 56.5% to 97.3% and three-month retention in care from 66.0% to 90.0%. Based on this, the CDC identified RCE as an evidence-informed structural intervention and included it in CDC's Compendium of Evidence-based Interventions (EBIs) and Best Practices for HIV Prevention.

Having an evidence-informed intervention like RCE that can be disseminated to the broader HIV health care community is important for several reasons: (1) Antiretroviral therapy (ART) is the best way to manage HIV and reduce transmission; (2) ART initiation is only possible when someone enters health care and then is ultimately retained in care; and (3) there are few existing evidenced-based structural interventions to support this process. This bias in the field of HIV interventions stems from a focus on individual behavior change interventions to prevent HIV infection. However, as new and effective treatments have emerged that reduce the likelihood of HIV transmission, HIV clinics and other healthcare settings have emerged as key contexts for HIV prevention by making sure that Persons with HIV (PWH) have immediate access to ART. Therefore, the field has slowly shifted to understanding how providers and health systems can be encouraged to support PWH to reduce HIV.

This study will contribute to the field by creating tools to support clinics and healthcare settings that want to implement the RCE Program to link PWH to care. A toolkit will be created and tested via implementing RCE in two clinics. Lessons from the implementation of RCE will be used to update the toolkit. The final toolkit will be disseminated via CDC's website. Furthermore, because the study also evaluates the implementation strategies, outcomes, and context when RCE is being used, the study will be able to recommend what is needed to implement RCE with fidelity and success and incorporate these insights into the toolkit. Finally, because tracking costs are also a part of the evaluation, clinics and health systems that are examining potential RCE adoption will have material information about what is needed to put RCE into practice. An understanding of the actual costs can provide important justification for program planners.

The results of this study will help CDC frame how best to disseminate the RCE Program to the broader HIV health care community. This is important because only federal agencies like CDC have the resources and infrastructure to broadly disseminate EBIs. Broad dissemination and uptake of EBIs like RCE can help move population rates of HIV suppression which would affect population transmission rates. Linkage to care, in an era of biomedical HIV prevention, is a prevention linchpin. CDC requests approval for an estimated 125 annual burden hours. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
RCE Clients	Screener	180	1	5/60	15
RCE Implementation Staff	Staff Survey—Preparation Phase	8	1	15/60	2
RCE Implementation Staff	Staff Survey—Implementation Phase (months 1,3,5).	8	3	15/60	6
RCE Implementation Staff	Staff Survey—Implementation Phase (months 2,4,6).	8	3	15/60	6
RCE Implementation Staff	Staff Interview Guide—Preparation Phase	8	1	1	8
RCE Implementation Staff	Staff Interview Guide–Implementation Phase (months 1,3,5).	8	3	30/60	12
RCE Implementation Staff	Staff Interview Guide–Implementation Phase (months 2,4,6).	8	3	30/60	12
Clinic Leadership	Clinic Leadership Interview Guide	2	1	30/60	1
	Labor Cost Questionnaire	6	4	1.5	36
	Non-Labor Cost Questionnaire	2	9	1.5	27
Total					125

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021–17863 Filed 8–19–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10280, CMS–1557 and CMS–3070G–I]

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 October 19, 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–10280 Home Health Change of Care Notice

CMS–1557 Survey Report Form for Clinical Laboratory Improvement Amendments (CLIA) and Supporting Regulations

CMS–3070G–I ICF/IID Survey Report Form and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of the Information Collection:* Home Health Change of Care Notice; *Use:* The purpose of the Home Health Change of Care Notice (HHCCN) is to notify original Medicare beneficiaries receiving home health care benefits of plan of care changes. Home health agencies (HHAs) are required to provide written notice to Original Medicare beneficiaries under various circumstances involving the reduction or termination of items and/or services consistent with Home Health Agencies Conditions of Participation (COPs).

The home health COP requirements are set forth in § 1891[42 U.S.C. 1395bbb] of the Social Security Act (the Act). The implementing regulations under 42 CFR 484.10(c) specify that Medicare patients receiving HHA services have rights. The patient has the right to be informed, in advance about the care to be furnished, and of any changes in the care to be furnished. The HHA must advise the patient in advance of the disciplines that will furnish care, and the frequency of visits proposed to be furnished. The HHA must advise the patient in advance of any change in the plan of care before the change is made.''

Notification is required for covered and non-covered services listed in the plan of care (POC). The beneficiary will use the information provided to decide whether or not to pursue alternative options to continue receiving the care noted on the HHCCN. *Form Number:* CMS–10280 (OMB control number: 0938–1196); *Frequency:* Yearly; *Affected Public:* Private Sector (Business or other for-profits, Not-for-Profit Institutions); *Number of Respondents:* 11,157; *Total Annual Responses:* 12,385,108; *Total Annual Hours:* 824,848. (For policy questions regarding this collection contact Jennifer McCormick at 410–786–2852.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Survey Report Form for Clinical Laboratory Improvement Amendments (CLIA) and Supporting Regulations; *Use:* The form is used to report surveyor findings during a CLIA survey. For each type of survey conducted (*i.e.,* initial certification, recertification, validation, complaint, addition/deletion of specialty/subspecialty, transfusion fatality investigation, or revisit inspections) the Survey Report Form incorporates the requirements specified in the CLIA regulations. *Form Number:* CMS–1557 (OMB control number: 0938–0544); *Frequency:* Biennially; *Affected Public:* Private sector (Business or other for-profit and Not-for-profit institutions, State, Local or Tribal Governments and Federal Government); *Number of Respondents:* 15,975; *Total*

Annual Responses: 7,988; *Total Annual Hours:* 3,994. (For policy questions regarding this collection contact Kathleen Todd at 410–786–3385).

3. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* ICF/IID Survey Report Form and Supporting Regulations; *Use:* The information collected with forms 3070G, CMS–3070H and CMS–3070I is used by the surveyors from the State Survey Agencies (SAs) to determine the level of compliance with the ICF/IID Conditions of Participation (CoPs) necessary to participate in the Medicare/Medicaid program and to report any non-compliance with the ICF/IID CoPs to the Federal government. These forms summarize the survey team characteristics, facility characteristics, client population, and the special needs of clients. These forms are used in conjunction with the CMS regulation text and additional surveyor aids such as the CMS interpretive guidelines and probes. The CMS–3070G–I forms serves as coding worksheets, designed to facilitate data entry and retrieval into the Automated Survey Processing Environment Suite (ASPEN) in the State and at the CMS regional offices. *Form Number:* CMS–3070G–I (OMB control number: 0938–0062); *Frequency:* Reporting—Yearly; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 5,758; *Total Annual Responses:* 5,758; *Total Annual Hours:* 17,274. (For policy questions regarding this collection contact Caroline Gallaher at 410–786–8705.)

Dated: August 17, 2021.

William N. Parham, III

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–17908 Filed 8–19–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Updates to Uniform Standard for Waiver of the Ryan White HIV/AIDS Program Core Medical Services Expenditure Requirement, OMB No. 0906–XXXX–NEW

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) is being forwarded by HRSA to the Office of Management and Budget (OMB) for review and approval. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this Notice has closed.

DATES: Comments on this ICR should be received no later than September 20, 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 Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Updates to Uniform Standard for Waiver of the Ryan White HIV/AIDS Program Core Medical Services Expenditure Requirement, OMB No. 0906–XXXX–NEW.

Abstract: In accordance with sections 2604(c), 2612(b), and 2651(c) of the Public Health Service Act, Ryan White HIV/AIDS Program (RWHAP) recipients are required to spend not less than 75 percent of grant funds on core medical services for individuals with HIV identified and eligible under the statute, after reserving statutory permissible amounts for administrative and clinical quality management costs. The RWHAP statute also grants the Secretary authority to waive this requirement for RWHAP Parts A, B, or C recipients if a number of requirements are met and a waiver request is submitted to HRSA for approval. RWHAP Part A, B, and C core medical services waiver requests—if approved—are effective for a 1-year budget period, and apply to funds awarded under the Minority AIDS Initiative.

Currently, for a core medical services waiver request to be approved, (1) core medical services must be available and accessible to all individuals identified and eligible for the RWHAP in the recipient's service area within 30 days, without regard to payer source; (2) there cannot be any AIDS Drug Assistance Program waiting lists in the recipient's service area; and (3) a public process to obtain input on the waiver request from impacted communities, including clients and RWHAP-funded core medical services providers, on the availability of core medical services and the decision to request the waiver must have occurred. The public process may be a part of the same one used to seek input on community needs as part of the annual priority setting and resource allocation, comprehensive planning, statewide coordinated statement of need, public planning, and/or needs assessment processes.

HRSA is proposing to simplify the waiver request process for RWHAP Parts A, B, and C recipients by revising Policy Number 13–07: Uniform Standard for Waiver of Core Medical Services Requirement for Grantees Under Part, A, B, and C. The proposed changes would reduce the administrative burden for recipients by lessening the documentation they must submit to HRSA when requesting a waiver. Under the proposed policy, recipients would be required to submit a one-page ''HRSA RWHAP Core Medical Services Waiver Request Attestation Form'' to HRSA in lieu of the multiple documents, including but not limited to a narrative of up to 10 pages currently required to submit a waiver request. Waiver request submission deadlines would also be revised. When finalized, the policy would replace HAB Policy Number 13–07 effective October 1, 2021, and would be named ''Waiver of the Ryan White HIV/AIDS Program Core Medical Services Expenditure Requirement.''

A 60-day notice published in the **Federal Register** on April 20, 2021, vol. 86, No. 74, pp. 20499–20500. No public comments were received in response to the ICR.

Need and Proposed Use of the Information: HRSA uses the documentation submitted in core medical services waiver requests to determine if the grant applicant or recipient meets the statutory requirements for waiver eligibility outlined in Sections 2604(c), 2612(b), and 2651(c) of the Public Health Service Act.

Likely Respondents: HRSA expects responses from RWHAP Parts A, B, and C grant applicants and recipients. The number of grant recipients requesting waivers has fluctuated annually and has ranged from 15 to 22 per year since the waiver process was implemented in FY 2007.

Given the changes in the health care environment, HRSA anticipates receiving possibly up to 22 applications in a given year.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Waiver Request	22	1	22	4	88
	22		22		88

HRSA notes that this proposed process represents a decrease in burden when compared to the current policy outlined in PN 13–07 due in part to the elimination of the requirement to prepare and submit a narrative and multiple documents. HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2021–17834 Filed 8–19–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Updated HRSA-Supported Women's Preventive Services Guidelines: Well-Women Preventive Visits, Counseling for Sexually Transmitted Infections, and Breastfeeding Services and Supplies

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice seeks comments on an updated draft recommendation for Well-Woman Preventive Visits, Counseling for Sexually Transmitted Infections, and Breastfeeding Services and Supplies, as part of the HRSA-supported Women's Preventive Services Guidelines. This updated draft recommendation has been developed through a national cooperative agreement, the Women's Preventive Services Initiative (WPSI), by the American College of Obstetricians and Gynecologists (ACOG). Under the Public Health Service Act, as added by the Patient Protection and Affordable Care Act, non-grandfathered group health plans and non-grandfathered group and individual health insurance issuers must include coverage, without cost sharing, for certain preventive services under that section, including those provided for in the HRSA-supported Women's Preventive Services Guidelines (Guidelines).

DATES: Members of the public are invited to provide written comments no later than September 20, 2021. All comments received on or before this date will be reviewed and considered by the WPSI Multidisciplinary Steering Committee.

ADDRESSES: Members of the public interested in providing comments on the draft recommendation statements can do so by accessing the initiative's web page at *https://www.womenspreventivehealth.org/.*

FOR FURTHER INFORMATION CONTACT: Kimberly Sherman, HRSA, Maternal and Child Health Bureau, telephone (301) 443–8283, email: *wellwomancare@hrsa.gov.*

SUPPLEMENTARY INFORMATION: The HRSA-supported Women's Preventive Services Guidelines were originally established in 2011 based on a study and recommendations by the Institute of Medicine, now known as the National Academy of Medicine, commissioned by HHS. Since then, there have been advancements in science and gaps identified in these guidelines, including a greater emphasis on practice-based clinical considerations. In March 2016, HRSA awarded a 5-year cooperative agreement to convene a coalition representing clinicians, academics, and consumer-focused health professional organizations to conduct a rigorous review of current scientific evidence and recommend updates to existing guidelines. The ACOG was awarded the cooperative agreement and formed the WPSI, which consists of an Advisory Panel and two expert committees; the Multidisciplinary Steering Committee (MSC) and the Dissemination and Implementation Steering Committee, to improve adult women's health across the lifespan by engaging a coalition of health professional organizations to review evidence and recommend updates to the HRSA-supported Women's Preventive Services Guidelines. HRSA would then decide whether or not to support, in whole or

in part, the recommended updates to the Guidelines.

In March 2021, ACOG was awarded a subsequent cooperative agreement to further review and recommend updates to the Guidelines. As the award recipient, starting on March 1, 2021, ACOG has engaged in a process to consider and review new information developed by a multidisciplinary group of women's health professional organizations. Following recommendations by ACOG, HRSA will decide whether to support, in whole or in part, the recommended updates to the guidelines.

As part of this cooperative agreement, ACOG is required to base its recommended updates to the Guidelines on review and synthesis of existing clinical guidelines and new scientific evidence. The National Academy of Medicine standards for establishing foundations for and rating strengths of recommendations, articulation of recommendations, as well as external reviews are to be met in developing these guidelines. Additionally, processes are to be incorporated to assure opportunity for public input and transparency, including participation by patients and consumers, in the development of the updated Guideline recommendations.

This notice solicits comments from the public on the draft recommendation statements for the Well-Woman Preventive Visits, Counseling for Sexually Transmitted Infections, and Breastfeeding Services and Supplies. The updated draft clinical recommendation statements are provided below:

Well Woman Preventive Visits

The MSC has updated the clinical recommendation statement to reflect that recommended services may be completed at a single visit or as part of a series of preventive health visits that take place over time to obtain the necessary services. Well Women Visits have also been further defined to include pre-pregnancy, prenatal, and interpregnancy visits.

''The WPSI recommends that women receive at least one preventive care visit per year beginning in adolescence and continuing across the lifespan to ensure the provision of all recommended preventive services. These services may be completed at a single visit or as part of a series of visits that take place over time to obtain all necessary services depending on a woman's age, health status, reproductive health needs, pregnancy status, and risk factors. Well women visits include pre-pregnancy, prenatal, and interpregnancy visits. The primary purpose of well-woman visits is the delivery and coordination of all recommended preventive services as determined by age and risk factors.''

Counseling for Sexually Transmitted Infections

The MSC has made minor updates to the counseling for sexually transmitted infections statement to include a review of a women's sexual history, and modified the risk factor list by stating that risk factors are ''not limited to'' the areas indicated.

''The WPSI recommends directed behavioral counseling by a health care provider or other appropriately trained individual for sexually active adolescent and adult women at an increased risk for sexually transmitted infections (STIs).

The WPSI recommends that health care providers review a woman's sexual history and risk factors to help identify those at an increased risk of STIs. Risk factors include but are not limited to age younger than 25 years, a recent history of an STI, a new sex partner, multiple partners, a partner with concurrent partners, a partner with an STI, and a lack of or inconsistent condom use. For adolescents and women not identified as high risk, counseling to reduce the risk of STIs should be considered, as determined by clinical judgment.''

Breastfeeding Services and Supplies

The MSC has updated the clinical recommendation to include consultative services that will optimize successful initiation and maintenance of breastfeeding.

''The WPSI recommends comprehensive lactation support services (including consultation, counseling, education, and breastfeeding equipment and supplies) during the antenatal, perinatal, and postpartum periods to optimize the successful initiation and maintenance of breastfeeding.''

Members of the public can view each complete updated draft recommendation statement by accessing the initiative's web page at *https://www.womenspreventivehealth.org/.*

Diana Espinosa,

Acting Administrator.

[FR Doc. 2021–17826 Filed 8–19–21; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; Aging and Metabolic Plasticity of Adipose Tissue.

Date: October 19, 2021.

Time: 12:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Joshua Jin-Hyouk Park, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–6208, *joshua.park4@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; MOST4 Osteoarthritis Study.

Date: October 27, 2021.

Time: 12:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Joshua Jin-Hyouk Park, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–6208, *joshua.park4@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel; Neurogenesis Dynamics in AD and ADRD.

Date: November 9–10, 2021.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Joshua Jin-Hyouk Park, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 496–6208, *joshua.park4@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 17, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17877 Filed 8–19–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical 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: NIGMS Initial Review Group Training and Workforce Development Study Section–C; Review of MARC and U–RISE T34 Applications.

Date: October 21–22, 2021.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

Contact Person: Lee Warren Slice, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institutes of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18A, Bethesda, MD 20814, 301–435–0807, *slicelw@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 17, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17875 Filed 8–19–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: The Development of an Epidermal Growth Factor Receptor Variant III (EGFRvIII) Antibody-Drug Conjugate (ADC) for the Treatment of EGFRvIII-Expressing Human Cancers

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this notice ADC Therapeutics Ltd (ADCT), located in Lausanne, Switzerland.

DATES: Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before September 7, 2021 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: Abritee Dhal, Ph.D., Technology Transfer Manager, NCI Technology Transfer Center, Telephone: (240) 276–6154; Email: *abritee.dhal@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

U.S. Provisional Patent Application 62/869,956 entitled ''Monoclonal Antibodies that Bind EGFRvIII and Their Use'' [HHS Ref. E–103–2019–0–US–01], PCT Patent Application PCT/US2020/040544 entitled ''Monoclonal Antibodies that Bind EGFRvIII and Their Use'' [HHS Ref. E–103–2019–0–PCT–02], and U.S. and foreign patent applications claiming priority to the aforementioned applications.

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to:

The use, development, manufacturing and commercialization of an antibody-drug conjugate (ADC) having:

(1) The CDR sequences of the 40H3 monoclonal antibody

(2) a DNA-damaging or immunostimulant payload including, but not limited to, pyrrolobenzodiazepines, camptothecins, ecteinascidins, TLR/STING agonists,

for the treatment of EGFR-overexpressing tumors including, but not limited to glioblastoma, head and neck cancer, non-small cell lung cancer (NSCLC) and colorectal cancer. The license field of use excludes any (a) non-specified immunoconjugates, including, but not limited to, chimeric antigen receptors (CARs) and variants thereof, ADCs with payloads that are not DNA-damaging, and (b) unconjugated antibodies.''

Epidermal growth factor receptor (EGFR) is a transmembrane receptor for members of the epidermal growth factor (EGF) family of extracellular protein ligands. There is substantial evidence that aberrant EGFR activity is involved in the pathogenesis and progression of various types of cancers including glioblastoma multiforme (GBM). Aberrant EGFR activity is frequently associated with genetic alterations in EGFR expression (such as gene amplification) or activity (such as activating mutations). A particularly prominent activating mutation is caused by the loss of exons 2–7 to produce EGFR variant III (EGFRvIII). This constitutively active variant of EGFR is expressed in cancer cells only. Currently, there for no effective therapy for patients with GBM. The EGFRvIII ADC can potentially be used for the treatment of GBM and other EGFR expressing cancers such as head and neck cancer, NSCLC and colorectal cancer, the ADCs can lead to the selective destruction of the cancerous cells. The development of a new therapeutic targeting EGFR will benefit public health by providing an effective treatment for patients with GBM and other solid tumors.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: August 16, 2021.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2021–17849 Filed 8–19–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council, September 09, 2021, 10:00 a.m. to September 10, 2021, 12:45 p.m., National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD, 20892 which was published in the **Federal Register** on August 09, 2021, FR Doc 2021–16952, 86 FR 43557.

The meeting notice is amended to change and adjust the Opening and Closing times on the Subcommittees and Executive Sessions. The meeting is partially Closed to the public.

Dated: August 17, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17876 Filed 8–19–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; AMP AIM Technology and Analytic Cores Review.

Date: September 15, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Blvd, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kan Ma, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, Musculoskeletal and Skin Diseases, NIH, 6701 Democracy Boulevard, Suite 814, Bethesda, MD 20892, 301–451–4838, *mak2@mail.nih.gov*.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel; AMP–AIM Disease Team Review.

Date: September 17, 2021.

Time: 10:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yin Liu, Ph.D., MD Scientific Review Officer, Scientific Review Branch, National Institute of Arthritis, and Musculoskeletal and Skin Diseases, National Institute of Health, Bethesda, MD 20892, 301–496–0505 *liuy@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 17, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17873 Filed 8–19–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Council of Councils.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open sessions will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov*).

A portion of 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: Council of Councils.

Open: September 17, 2021.

Time: 10:00 a.m. to 12:10 p.m.

Agenda: Call to Order and Introductions; Announcements and Updates; NIH Program Updates; Scientific Talks and Other Business of the Committee.

Place: National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Name of Committee: Council of Councils.

Closed: September 17, 2021.

Time: 12:10 p.m. to 1:10 p.m.

Agenda: Review of Grant Applications.

Place: National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Open: September 17, 2021.

Time: 1:30 p.m. to 5:10 p.m.

Agenda: NIH Program Updates; Scientific Talks and Other Business of the Committee.

Place: National Institutes of Health, Building 1, One Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Robert W. Eisinger, Ph.D., Executive Secretary, Council of Councils, Senior Scientific Advisor, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, Building 1, Room 258, One Center Drive, Bethesda, MD 20892, *robert.eisinger@nih.gov,* 301–451–0455.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Council of Council's home page at *http://dpcpsi.nih.gov/council/* where an agenda will be posted before the meeting date.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired

Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: August 17, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17895 Filed 8–19–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group; Kidney, Urologic and Hematologic Diseases D Study Section DDK–D.

Date: October 19–21, 2021.

Time: 5:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: II Democracy Plaza, Democracy 2, 6707 Democracy Blvd., Bethesda, MD 20817 (Video Meeting).

Contact Person: Jason D. Hoffert, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7343, 6707 Democracy Boulevard, Bethesda, MD 20817, 301–496–9010, *hoffertj@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 17, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17880 Filed 8–19–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical 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 General Medical Sciences Special Emphasis Panel; Review of NIGMS National and Regional Resource (R24) Applications.

Date: October 20, 2021.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

Contact Person: Ruth Grossman, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, (301) 435–2409 *grossmanrs@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; NIGMS Review of SuRE Applications.

Date: November 9, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

Contact Person: Brian R. Pike, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, 301–594–3907, *pikebr@mail.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; NIGMS Review of SuRE Applications

Date: November 10, 2021.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Video Meeting).

Contact Person: Ruth Grossman, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, (301) 435–2409, *grossmanrs@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: August 17, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17874 Filed 8–19–21; 8:45 am]

BILLING CODE 4140–01–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: September 23, 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 1037 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 1037, Bethesda, MD 20817, 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: August 17, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17896 Filed 8–19–21; 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 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: Center for Scientific Review Special Emphasis Panel; NIH Research Enhancement Award (R15) in Oncological Sciences.

Date: September 22, 2021.

Time: 11:00 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: Svetlana Kotliarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, 301–594–7945, *kotliars@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 16, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–17848 Filed 8–19–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0412]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0033

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0033, Display of Fire Control Plans for Vessels; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before October 19, 2021.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2021–0412] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2021–0412], and must be received by October 19, 2021.

Submitting Comments

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

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Display of Fire Control Plans for Vessels.

OMB Control Number: 1625–0033.

Summary: This information collection is for the posting or display of specific plans on certain categories of commercial vessels. The availability of these plans aid firefighters and damage control efforts in response to emergencies.

Need: Under 46 U.S. Code 3305 and 3306, the Coast Guard is responsible for ensuring the safety of inspected vessels and has promulgated regulations in 46 CFR parts 35, 78, 97, 109, 131, 169, and 196 to ensure that safety standards are met.

Forms: None.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden remains 472 hours a year.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: August 17, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–17919 Filed 8–19–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0411]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0014

AGENCY: Coast Guard, Homeland Security (DHS).

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0014, Request for Designation and Exemption of Oceanographic Research Vessels; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before October 19, 2021.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2021–0411] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: COMMANDANT (CG–6P), ATTN: PAPERWORK REDUCTION ACT MANAGER, U.S. COAST GUARD, 2703 MARTIN LUTHER KING JR. AVE. SE, STOP 7710, WASHINGTON, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2021–0411], and must be received by October 19, 2021.

Submitting Comments

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

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Request for Designation and Exemption of Oceanographic Research Vessels.

OMB Control Number: 1625–0014.

Summary: This collection requires submission of specific information about a vessel in order for the vessel to be designated as an Oceanographic Research Vessel (ORV).

Need: Title 46 U.S. Code 2113 authorizes the Secretary of the Department of Homeland Security to exempt ORVs, by regulation, from provisions of Subtitle II, of Title 46, Shipping, of the United States Code, concerning maritime safety and seaman's welfare laws. This information is necessary to ensure a vessel qualifies for the designation of ORV under 46 CFR part 3 and 46 CFR part 14, subpart D.

Forms: None.

Respondents: Owners or operators of certain vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden of 36 hours a year remains unchanged.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: August 17, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–17917 Filed 8–19–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0410]

Information Collection Request to Office of Management and Budget; OMB Control Number: 1625–0013

AGENCY: Coast Guard, DHS.

ACTION: Sixty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0013, Plan Approval and Records for Load Lines; without change. Our ICR describes the information we seek to collect from the public. Before submitting this ICR to OIRA, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before October 19, 2021.

ADDRESSES: You may submit comments identified by Coast Guard docket number [USCG–2021–0410] to the Coast Guard using the Federal eRulemaking Portal at *https://www.regulations.gov.* See the ''Public participation and request for comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology.

In response to your comments, we may revise this ICR or decide not to seek an extension of approval for the Collection. We will consider all comments and material received during the comment period.

We encourage you to respond to this request by submitting comments and related materials. Comments must contain the OMB Control Number of the ICR and the docket number of this request, [USCG–2021–0410], and must be received by October 19, 2021.

Submitting Comments

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

We accept anonymous comments. All comments received will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Information Collection Request

Title: Plan Approval and Records for Load Lines—Title 46 CFR subchapter E.

OMB Control Number: 1625–0013.

Summary: This information collection is required to ensure that certain vessels are not overloaded—as evidenced by the submerging of their assigned load line. In general, vessels over 150 gross tons or 24 meters (79 feet) in length engaged in commerce on international or coastwise voyages by sea are required to obtain a Load Line Certificate.

Need: Title 46 U.S. Code 5101 to 5116 provides the Coast Guard with the authority to enforce provisions of the International Load Line Convention, 1966. Title 46 CFR subchapter E—Load Lines, contains the relevant regulations.

Forms: None.

Respondents: Owners and operators of vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 757 hours to 687 hours a year due to a decrease in the estimated annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended.

Dated: August 17, 2021.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2021–17918 Filed 8–19–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7040–N–09]

60-Day Notice of Proposed Information Collection: Voucher Management System (VMS); OMB Control No.: 2577–0282

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, 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:* October 19, 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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. 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. Pollard.

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: Voucher Management System (VMS).

OMB Approval Number: 2577–0282.

Type of Request: Revision of a previously approved collection.

Form Number: HUD–52672, 52681, 52681–B, 52663 and 52673.

Public Housing Agencies (PHAs) that administer the Housing Choice Voucher (HCV) Program are required to maintain financial reports in accordance with accepted accounting standards in order to permit timely and effective audits. The HUD–52672 (Supporting Data for Annual Contributions Estimates Section 8 Housing Assistance Payments Program) and 52681 (Voucher for Payment of Annual Contributions and Operating Statement Housing Assistance Payments Program) financial records identify the amount of annual contributions that are received and disbursed by the PHA and are used by PHAs that administer the five-year Mainstream Program, MOD Rehab, and Single Room Occupancy. Form HUD–52663 (Suggested Format for Requisition for Partial Payment of Annual Contributions Section 8 Housing Assistance Payments Program) provides for PHAs to indicate requested funds and monthly amounts. Form HUD–52673 (Estimate of Total Required Annual Contributions Section 8 Housing Assistance Payments Program) allows PHAs to estimate their total required annual contributions. The required financial statements are similar to those prepared by any responsible business or organization. The automated form HUD–52681–B (Voucher for Payment of Annual Contributions and Operating Statement Housing Assistance Payments Program Supplemental Reporting Form) is entered by the PHA into the Voucher Management System (VMS) on a monthly basis during each calendar year to track leasing and Housing Assistance Payments (HAP) expenses by voucher category, as well as data concerning fraud recovery, Family Self-Sufficiency escrow accounts, PHA-held equity, etc. The inclusion, change, and deletion of the fields will improve the allocation of funds and allow the PHAs and the Department to realize a more complete picture of the PHAs' resources and program activities, promote financial accountability, and improve the PHAs' ability to provide assistance to as many households as possible while maximizing budgets. In addition, the fields will be crucial to the identification of actual or incipient financial problems that will ultimately affect funding for program participants. The automated form HUD–52681–B is also utilized by the same programs as the manual forms.

Description of the need for the information and proposed use: The Voucher Management System (VMS) supports the information management needs of the Housing Choice Voucher (HCV) Program and management functions performed by the Financial Management Center (FMC) and the Financial Management Division (FMD) of the Office of Public and Indian Housing and the Real Estate Assessment Center (PIH–REAC). This system's primary purpose is to provide a central system to monitor and manage the Public Housing Agency (PHAs) use of vouchers and expenditure of program funds and is the base for budget formulation and budget implementation. The VMS collects PHAs' actual cost data that enables HUD to perform and control cash management activities; the costs reported are the base for quarterly HAP and Fee obligations and advance disbursements in a timely manner, and reconciliations for overages and shortages on a quarterly basis.

Respondents (i.e., affected public): Public Housing Authorities (PHA).

Estimated Number of Respondents: 2,185.

Estimated Number of Responses: 26,980.

Frequency of Response: Monthly.

Average Hours per Response: 2.

Total Estimated Burdens: 53,580.

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours
Financial Forms (HUD- 52681–B)	2,185	12	26,220	2	52,440
HUD–52681	190	1	190	1.5	285
HUD–52663	190	1	190	1.5	285
HUD–52672	190	1	190	1.5	285
HUD–52673	190	1	190	1.5	285
Totals	2,185	varies	26,980	varies	53,580

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.

Dated: July 28, 2021.

Laura Miller-Pittman,

Chief, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2021–17851 Filed 8–19–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7039–N–02]

60-Day Notice of Proposed Information Collection: Promise Zones Reporting; OMB Control No.: 2501–0035

AGENCY: Office of Field Policy and Management, Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: The U.S. Department of Housing and Urban Development (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: October 19, 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: Promise Zones Reporting.

OMB Approval Number: 2501–0035.

Type of Request: Reinstatement with changes.

Form Number: HUD–9916 Promise Zone Annual Narrative Report.

HUD–9917 Quarterly Investments & Assistance Report.

HUD–9919 Quarterly Progress and Annual Priorities Report.

Description of the need for the information and proposed use: This collection is a reinstatement with changes to a previous collection that collected information for reporting purposes. The HUD–XXXX ''New Neighborhood Amenities'' form, from the original 2501–0035 OMB approval, has been removed from this collection because the form was never used. Additionally, HUD Form 9917 (Bi-annual Non-Federal Investment report) and HUD Form 9918 (Monthly Federal Grants Report) have been merged so that HUD 9917 will now collect the information previously captured in HUD 9918. HUD 9917 has therefore been reformatted to collect this new information and to be more user-friendly; HUD 9918 has been removed and retired from this collection. HUD–9917 will now be called the Quarterly Investments and Assistance Report; it will be collected quarterly and submitted cumulatively. These changes will reduce unnecessary copying and pasting, reformatting, and file management, and will ultimately reduce the burden on respondents.

HUD designated fourteen communities as urban Promise Zones between 2014 and 2016. Under the Promise Zones initiative, the federal government invests in and partners with high-poverty urban, rural, and tribal communities to create jobs, increase economic activity, improve educational opportunities, leverage private investment, and reduce violent crime. Additional information about the Promise Zones initiative can be found at *https://www.hud.gov/program_offices/field_policy_mgt/fieldpolicymgtpz,* and questions can be addressed to *promisezone@hud.gov.* The federal administrative duties pertaining to these designations shall be managed and executed by HUD for ten years from the designation dates pursuant to sections 2 and 3 of the HUD Act, 42 U.S.C. 3531–32, to assist the President in achieving maximum coordination of the various federal activities which have a major effect upon urban community, suburban, or metropolitan development; to develop and recommend the President policies for fostering orderly growth and development of the Nation's urban areas; and to exercise leadership, at the direction of the President, in coordinating federal activities affecting housing and urban development. To facilitate communication between local and federal partners, HUD proposes that Promise Zone Lead Organizations submit minimal reports and documents to support collaboration and problem solving between local and federal partners. These reports will also assist in communications and stakeholder engagement, both locally and nationally.

Respondents: Fourteen Promise Zone Lead Organizations.

Estimated Number of Respondents:

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Annual Report Narrative (9916)	14	1	14	10	140	$38.08	$5,331.20
Quarterly Investments and Assistance report (9917)	14	4	56	20	1,120	38.08	42,649.60

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Quarterly Progress and Annual Priorities report (9919)	14	4	56	10	560	38.08	21,324.80
Quarterly Spotlights (Public Communications materials)	14	4	56	2	112	38.08	4,264.96
Total			182	42	1,932		73,570.56

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,

Director, Office of Field Policy and Management.

[FR Doc. 2021–17885 Filed 8–19–21; 8:45 am]

BILLING CODE 4210–67–P

INTER-AMERICAN FOUNDATION

30-Day Notice of Proposed Information Collection Under OMB Review; Comment Request

AGENCY: Inter-American Foundation.

ACTION: Notice and request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Inter-American Foundation (IAF), will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Written comments must be submitted to the office listed in the address section below within 30 days from the date of this publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Natalia Mandrus, Associate General Counsel, Inter-American Foundation, via email to *nmandrus@iaf.gov; (202) 683–7117.*

SUPPLEMENTARY INFORMATION: *Title of Collection:* Grantee Conflicts of Interest Disclosure Form.

OMB Control Number: Will be assigned upon OMB approval.

Type of Review: New Collection (Request for a new OMB control number).

Affected Public: IAF grantees.

Estimated Number of Respondents per year: 10.

Estimated Total Annual Burden Hours: 15.

Abstract: The purpose of the Grantee Conflicts of Interest Disclosure Form is to give IAF grantees an opportunity to disclose any personal or organizational conflicts of interest, or potential for conflicts of interest. Grantees who have a conflict or potential conflict must disclose all relationships with which it or any covered person has that create, or appear to create, a conflict of interest.

Request for Comments: The IAF issued a 60-day **Federal Register** notice on May 7, 2021 (86 FR 24655). Comments were solicited and continue to be invited on: (a) 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; (b) 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) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including 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. 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.

A Notice by the Inter-American Foundation on August 13, 2021.

Aswathi Zachariah,

General Counsel.

[FR Doc. 2021–17735 Filed 8–19–21; 8:45 am]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/ A0A501010.999900253G]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact in the State of Wisconsin

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of the Third Amendment to the Oneida Nation and the State of Wisconsin Gaming Compact of 1991 providing for Class III gaming between the Oneida Nation (Tribe) and the State of Wisconsin (State).

DATES: The compact takes effect on August 20, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, *paula.hart@bia.gov,* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of

engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendment expands the types of authorized games to include events wagering with geofencing, adds the Nation's minimum internal control standards for sports betting, including rules governing events wagering, and replaces any references to the Oneida Indians of Wisconsin with Oneida Nation. The Amendment is approved.

Bryan Newland,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2021–17858 Filed 8–19–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/A0A501010.999900253G]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact in the State of Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the approval of Amendment IV to the Tribal-State Compact (Amendment) between the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (Tribe) and the State of Oregon (State).

DATES: The compact takes effect on August 20, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, *paula.hart@bia.gov,* (202) 219–4066.

SUPPLEMENTARY INFORMATION: Under section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2701 *et seq.,* the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by 25 CFR 293.4, all compacts and amendments are subject to review and approval by the Secretary. The Amendment authorizes the Tribe to engage in sports pool wagering at the Tribe's class III gaming facility, updates the Compact to reflect this change in various sections, updates the forms of payment that may be accepted to coincide with the State Lottery, includes provisions to protect personal data of customers, requires certification for any new technology from an independent gaming test laboratory, and corrects previous errors in numbering of Amendments I, II, and III. The Amendment is approved.

Bryan Newland,

Principal Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 2021–17860 Filed 8–19–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[21X.LLIDT030000.L51010000.ER0000.LVRWD2104400.241A00;4500154900]

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Lava Ridge Wind Project in Jerome, Lincoln, and Minidoka Counties, Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Consistent with the regulations implementing the National Environmental Policy Act (NEPA) and the Federal Land Policy and Management Act (FLPMA), the Bureau of Land Management (BLM) announces its intent to prepare an Environmental Impact Statement (EIS) for the proposed Lava Ridge Wind Project (Lava Ridge). This notice initiates the scoping process and temporary segregation of public lands from appropriation under the public land and mining laws. Additionally, this NOI seeks public comment and input under the National Historic Preservation Act (NHPA) and its implementing regulations.

DATES: The BLM requests comments concerning the scope of the analysis and identification of relevant information, studies, and analyses. All comments must be received by September 20, 2021. The Draft EIS is scheduled for the summer of 2022 and the Final EIS is scheduled for late 2022 with a Record of Decision issued no sooner than 30 days after the Final EIS is released. The BLM will hold public scoping meetings; the dates, locations, and times will be announced at least 15 days in advance through public notices, media releases and/or mailings.

ADDRESSES: Send written comments to: Lava Ridge Wind Energy EIS, BLM Shoshone Field Office, Attn: Kasey Prestwich, 400 West F Street, Shoshone, ID 83352. Send comments via email to *BLM_ID_LavaRidge@blm.gov.* Submit comments online at *https://go.usa.gov/xFKxg* and click on the ''Participate Now'' button to the right of the document link. Enter your comment and information, then click ''Submit''.

FOR FURTHER INFORMATION CONTACT: Kasey Prestwich, Project Manager, BLM Shoshone Field Office, 400 West F Street, Shoshone, ID 83352, 208–732–7204, *kprestwich@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Purpose and Need for the Proposed Action

In Executive Order 14008, President Biden emphasized the need for the United States to ''deploy the full capacity of its agencies to combat the climate crisis'' in an approach that focuses attention on ''innovation, commercialization, and deployment of clean energy technologies and infrastructure.'' The Department of the Interior (DOI) has prioritized ''identifying steps to accelerate responsible development of renewable energy on public lands and waters.''

Magic Valley Energy's, LLC (MVE) goal for Lava Ridge is to construct and operate a commercial-scale wind energy facility that reliably and economically produces wind energy for delivery to power markets in the western United States. This goal arises from regulatory, utility, and consumer-driven objectives to incorporate new renewable and carbon-free energy sources into energy supply portfolios. Substantial increases in new renewable energy are required to meet this need. Most western states have specific renewable energy goals. Based on the goals and objectives of the proponent and the BLM's authority, the BLM will evaluate the ROW grant application submitted by MVE in compliance with FLPMA, BLM regulations, and other applicable Federal laws and policies. The need for the BLM's action arises from FLPMA, which establishes a multiple use mandate for management of Federal lands, including ''systems for generation, transmission, and distribution of electric energy'' (FLPMA Title V). The BLM's action in considering MVE's ROW application is a delegated authority of the Secretary of the Interior to ''grant issue or renew rights of way . . . for generation,

transmission, and distribution of electric energy'' (43 CFR part 2800).

Preliminary Proposed Action and Alternatives

As described in the plan of development (POD), MVE proposes to construct Lava Ridge which includes up to 400 wind turbines with a maximum height of up to 740 feet, up to seven new substations, a battery energy storage system, three operations and maintenance facilities and associated infrastructure. Associated infrastructure required by the project includes access roads, electric collector lines and transmission lines to interconnect the generated power to the electric grid.

The Draft EIS will analyze a reasonable range of alternatives to be fully developed after considering information provided during the scoping period. Preliminary alternatives may include changes to proposed facility layouts, activity schedules, and seasonal operation requirements designed to protect resources under BLM management while still retaining a reliable and economically feasible wind energy facility. The range of alternatives analyzed in the Draft EIS will include a no action alternative. Under the no action alternative, the BLM would deny the application, and MVE's wind energy facility described in the POD would not be built.

Summary of Expected Impacts

The Draft EIS will identify and describe the effects of the Proposed Action on the human environment. Based on a preliminary evaluation of resources, the BLM expects impacts (either beneficial or adverse and of varying intensity) to wildlife and their habitats, land uses, cultural resources, visual resources, and social and economic conditions.

Preliminary issues of concern to be analyzed in the EIS include, but are not limited to:

- Short-term or long-term loss of wildlife habitat, including greater sage-grouse, and sensitive plant species due to ground disturbance;
- Changes to visual character and scenic quality due to the development and operation of the proposed project;
- Changes in access to and the quality and quantity of recreation and grazing resources for existing users;
- Changes to social and economic conditions resulting from the development and operation of the proposed project; and
- Physical, visual, and audible disturbance to historic properties and cultural properties within and outside of the project area.

Anticipated Permits and Authorizations

In addition to the requested ROW grant, other Federal, state, and local authorizations will be required for Lava Ridge. These include authorizations under the Bald and Golden Eagle Act, Clean Water Act, 14 CFR part 77, and other laws and regulations determined to be applicable to Lava Ridge.

Schedule for the Decision-Making Process

The BLM expects to issue a decision by early 2023. It is anticipated that MVE will secure all necessary authorizations following the BLM decision.

Public Scoping Process

This NOI initiates the scoping process, which guides development of the EIS. The scoping process encourages those who may be interested or affected by Lava Ridge to submit comments on resources and issues, impact-causing factors, reasonable alternatives and potential mitigation measures to be analyzed in the EIS. For information on how to submit comments, see the **ADDRESSES** section above. The BLM will hold public scoping meetings; the dates, locations, and times will be announced at least 15 days in advance through public notices, media releases and/or mailings.

The BLM will use the NEPA process to satisfy the public involvement requirements of Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. 306108) pursuant to 36 CFR 800.2(d)(3). Information about historic and cultural resources within the area potentially affected by Lava Ridge will be used to identify and evaluate impacts in the context of both NEPA and Section 106 of the NHPA. Federal agencies, Tribes, State and local governments, and other stakeholders interested in historic properties and cultural resources may request to participate in the Section 106 process as a Consulting Party. The BLM will continue consultation with Tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including potential impacts to cultural resources and treaty rights will be given due consideration.

Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

The BLM requests assistance with identifying potential alternatives to the Proposed Action. As alternatives should resolve a problem with the Proposed Action, please indicate the purpose of the suggested alternative. The BLM also requests the identification of potential impacts that should be analyzed. Impacts should be a result of the action; therefore, please identify the activity along with the potential impact. Information that reviewers have that would assist in the development of alternatives or analysis of resources issues is also helpful.

Lead and Cooperating Agencies

The BLM Shoshone Field Office is the lead agency for this EIS. The following have agreed to participate in the environmental analysis of the Project as Cooperating Agencies: National Park Service, U.S. Army Corps of Engineers, the State of Idaho, Jerome, Lincoln, and Minidoka Counties in Idaho.

Decision Maker

Field Manager, Shoshone Field Office.

Nature of Decision To Be Made

The BLM will decide whether to grant, grant with conditions, or deny the application for a ROW. Pursuant to 43 CFR 2805.10, if the BLM issues a grant, the BLM decision maker may include terms, conditions, and stipulations determined to be in the public interest.

Segregation of Lands

On April 30, 2013, the BLM published a Final Rule, Segregation of Lands—Renewable Energy (78 FR 25204), that amended the regulations found in 43 CFR 2090 and 2800. The provisions of the Final Rule allow the BLM to temporarily segregate public lands within a solar or wind application area from the operation of the public land laws, including the Mining Law of 1872, by publication of a **Federal Register** notice. The BLM uses this temporary segregation authority to preserve its ability to approve, approve with modifications, or deny proposed ROWs, and to facilitate the orderly administration of the public lands, subject to valid existing rights. Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which would not impact lands identified in this NOI may be allowed with the approval of an authorized officer of the BLM during the segregation period. The lands segregated under this NOI are legally described as follows:

Boise Meridian, Idaho

T. 7 S., R. 17 E.,
Sec. 1, S½SW¼ and S½SE¼;
Sec. 2, SE¼SE¼;
Sec. 12, NE¼.
T. 7 S., R. 18 E.,
Sec. 6, lot 7, SE¼SW¼, and S½SE¼;
Sec. 7, lots 1 and 2, NE¼, and E½NW¼;
Sec. 8, N½ and N½SE¼;

Sec. 9, S½NE¼, NW¼, N½SW¼, and N½SE¼;
Sec. 10, SW¼NE¼, S½NW¼, and S½;
Sec. 11, NW¼SW¼, S½SW¼, and S½SE¼;
Sec. 12, S½SW¼ and S½SE¼;
Sec. 13, N½NE¼, SE¼NE¼, N½NW¼, and E½SE¼;
Sec. 14, N½NE¼, SW¼NE¼, and W½;
Sec. 15, SE¼NE¼, NE¼SE¼, and S½SE¼;
Sec. 21, SE¼SE¼;
Sec. 22, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 23, NW¼NW¼, E½SW¼, and SE¼;
Sec. 24, E½NE¼, SW¼SW¼, and E½SE¼;
Sec. 25, NE¼, N½NW¼, and E½SE¼;
Sec. 26, E½, E½NW¼, and E½SW¼;
Sec. 27, W½NW¼;
Sec. 28, E½ and E½SW¼;
Sec. 33, N½NE¼ and NE¼NW¼;
Sec. 35, E½, E½NW¼, and E½SW¼.

T. 8 S., R. 18 E.,
Sec. 1, lots 1 thru 4, S½NE¼, S½NW¼, N½SW¼, and SE¼;
Sec. 2, lots 1 thru 3, S½NE¼, SE¼NW¼, SW¼, and N½SE¼;
Sec. 3, SW¼NW¼, N½SW¼, N½SE¼, and SE¼SE¼;
Sec. 4, S½NE¼ and S½NW¼;
Sec. 12, NE¼NE¼;
Sec. 24, E½NE¼ and E½SE¼.

T. 6 S., R. 19 E.,
Sec. 24, SE¼SW¼;
Sec. 25, E½ and E½NW¼.

T. 7 S., R. 19 E.,
Sec. 7, lots 7 and 8, SE¼SW¼, and SW¼SE¼;
Sec. 10, NE¼NE¼;
Sec. 11, lots 1 and 2, SW¼NE¼, N½NW¼, SE¼NW¼, and SE¼SE¼;
Sec. 12, lots 7 thru 9, SW¼SW¼, and SE¼SE¼;
Sec. 13, N½NE¼, SE¼NE¼, NE¼NW¼, NW¼SW¼, S½SW¼, NE¼SE¼, and S½SE¼;
Sec. 14, NE¼ and S½;
Sec. 15, SW¼NE¼, S½NW¼, and S½;
Sec. 17, N½, SW¼, N½SE¼, and SE¼SE¼;
Sec. 18, lots 1 thru 8, NE¼, E½NW¼, E½SW¼, N½SE¼, and SE¼SE¼;
Sec. 19, lots 1 thru 8 and NE¼NW¼;
Sec. 21, N½, N½SW¼, and SE¼;
Sec. 22, N½, N½SW¼, NE¼SE¼, and S½SE¼;
Sec. 23, N½NE¼ and W½;
Sec. 24, E½, N½NW¼, and SE¼SW¼;
Sec. 25, N½NE¼, SW¼NE¼, NW¼, N½SW¼, SW¼SW¼, and SE¼SE¼;
Sec. 26, SE¼NE¼, N½NW¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 27, N½NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼, S½SW¼, NW¼SE¼, and SE¼SE¼;
Sec. 28, S½NW¼ and SW¼;
Sec. 29, SE¼NE¼ and E½SE¼;
Sec. 30, lots 1 thru 8, E½NW¼, and E½SW¼;
Sec. 31, lots 1 thru 8, E½NW¼, and E½SW¼;
Sec. 32, E½NE¼;
Sec. 33;
Sec. 34, NE¼NE¼, S½NE¼, NW¼, and S½;
Sec. 35, N½NE¼, SW¼NE¼, W½, NE¼SE¼, and S½SE¼.

T. 8 S., R. 19 E.,
Sec. 1, lots 1, 3, and 4, SE¼NE¼, and SW¼NW¼;
Sec. 2;
Sec. 3, lots 1 thru 4, S½NE¼, S½NW¼, SW¼, N½SE¼, and SW¼SE¼;
Sec. 4, lots 1 thru 3, S½NE¼, S½SW¼, and SE¼;
Sec. 5, SW¼NW¼, NW¼SW¼, S½SW¼, and S½SE¼;
Sec. 6;
Sec. 7, lot 1, NE¼, NE¼NW¼, and E½SE¼;
Sec. 8;
Sec. 9, N½, N½SW¼, and SE¼;
Sec. 10, W½ and SW¼SE¼;
Sec. 11, NE¼, E½NW¼, E½SW¼, and NE¼SE¼;
Sec. 12, SW¼NW¼ and NW¼SW¼;
Sec. 14, SW¼NW¼;
Sec. 15, N½NE¼ and W½;
Sec. 17, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 18, lot 4, NE¼NE¼, S½NE¼, E½SW¼, and SE¼;
Sec. 19, lots 1 thru 4, NW¼NE¼, E½NW¼, and E½SW¼;
Sec. 20, N½NE¼ and SE¼NE¼;
Sec. 21;
Sec. 22, NW¼ and S½;
Sec. 23, SW¼SW¼;
Sec. 28, NW¼NE¼ and NE¼NW¼;
Sec. 30, lots 1 thru 4, SW¼NE¼, E½NW¼, E½SW¼, and W½SE¼;
Sec. 31, lot 1, W½NE¼, and NE¼NW¼.

T. 6 S., R. 20 E.,
Sec. 21, E½SE¼;
Sec. 22, S½NE¼, NE¼NW¼, S½NW¼, N½SW¼, SW¼SW¼, and N½SE¼;
Sec. 23, S½NW¼, N½SW¼, and SE¼;
Sec. 24, S½;
Sec. 25, N½ and W½SW¼;
Sec. 26;
Sec. 27, N½, NE¼SW¼, S½SW¼, and SE¼;
Sec. 28, NE¼, NE¼NW¼, S½NW¼, and S½;
Sec. 29, S½NE¼, S½NW¼, and S½;
Sec. 30, lots 2 thru 4, SE¼NE¼, E½SW¼, and SE¼;
Sec. 31, lots 1 thru 4, NE¼NW¼, SE¼SW¼, and S½SE¼;
Secs. 32 thru 34;
Sec. 35, N½, N½SW¼, and N½SE¼.

T. 7 S., R. 20 E.,
Sec. 1, lots 3 and 4, SW¼NW¼, SW¼, and SE¼SE¼;
Sec. 2;
Sec. 3, lots 1 and 4, SE¼NE¼, SW¼NW¼, and E½SE¼;
Sec. 4, lots 1 thru 4, S½NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 5;
Sec. 7, lot 4 and SE¼SW¼;
Sec. 8, E½, E½NW¼, and E½SW¼;
Sec. 9, NW¼NE¼, S½NE¼, NW¼, and S½;
Sec. 10, E½NE¼ and SW¼SW¼;
Sec. 11, N½NE¼, SW¼NE¼, NW¼, and S½;
Sec. 12, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 13, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 14, N½NE¼, SW¼NE¼, and W½;
Sec. 15, NE¼NE¼, S½NE¼, W½NW¼, W½SW¼, and SE¼;
Sec. 17, NE¼, E½NW¼, and S½;
Sec. 18, lots 1 thru 4, NW¼NE¼, S½NE¼, E½NW¼, E½SW¼, and SE¼;
Secs. 19 thru 21;
Sec. 22, NE¼, NW¼NW¼, S½NW¼, and S½;
Sec. 23, N½NW¼, SW¼NW¼, and S½;
Sec. 24, W½NE¼, NW¼, and S½;
Secs. 25 and 26;
Sec. 27, NE¼, NW¼NW¼, S½NW¼, SW¼, N½SE¼, and SE¼SE¼;
Secs. 28 and 29;
Sec. 30, lots 1 and 4, NE¼, E½NW¼, E½SW¼, N½SE¼, and SW¼SE¼;
Secs. 31 thru 33;
Sec. 34, NE¼NE¼, NW¼, NW¼SW¼, S½SW¼, and S½SE¼;
Sec. 35, N½, SW¼, and W½SE¼.

T. 8 S., R. 20 E.,
Sec. 1, lot 1, SE¼NE¼, SW¼, and S½SE¼;
Secs. 2 and 3;
Sec. 4, lots 1 thru 4, S½NE¼, S½NW¼, and SW¼;
Sec. 5, lots 1 thru 4, S½NE¼, SE¼NW¼, and SE¼;
Sec. 6, lot 1, lots 3 thru 9, and lot 11, SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼;
Sec. 7, lots 1 and 4, E½, E½NW¼, and E½SW¼;
Sec. 8, E½NE¼ and W½SW¼;
Sec. 9, W½NE¼, NW¼, and S½;
Sec. 10, E½, N½NW¼, SE¼NW¼, and E½SW¼;
Sec. 11, NE¼, E½NW¼, and S½;
Sec. 12, E½, N½NW¼, SW¼NW¼, NW¼SW¼, and S½SW¼;
Sec. 13, N½, W½SW¼, NE¼SE¼, and S½SE¼;
Secs. 14 and 15;
Sec. 17, W½NW¼, NW¼SW¼, S½SW¼, and S½SE¼;
Sec. 18, E½, E½NW¼, and NE¼SW¼;
Sec. 19, E½;
Sec. 20, W½ and SW¼SE¼;
Sec. 21, E½ and E½SW¼;
Secs. 22 and 23;
Sec. 24, N½NE¼, SE¼NE¼, W½, and E½SE¼;
Sec. 25, W½NE¼, W½, NW¼SE¼, and S½SE¼;
Sec. 26, N½NE¼, SE¼NE¼, NW¼NW¼, S½NW¼, SW¼, and E½SE¼;
Sec. 27, E½, N½NW¼, SW¼NW¼, and W½SW¼;
Sec. 28, E½ and NE¼NW¼;
Sec. 29, NW¼NE¼;
Sec. 33, E½;
Sec. 34, NE¼, NW¼NW¼, S½NW¼, and S½;
Sec. 35.

T. 9 S., R. 20 E.,
Sec. 1, lot 4 and SW¼NW¼;
Sec. 2;
Sec. 3, lots 3 and 4, S½NW¼, N½SW¼, SE¼SW¼, and S½SE¼;
Sec. 4, lots 1 and SE¼NE¼;
Sec. 10, W½NE¼ and NE¼NW¼;
Sec. 11, lot 2, N½, NE¼SW¼, and SE¼;
Sec. 12, W½NW¼, NW¼SW¼, and S½SW¼.

T. 5 S., R. 21 E.,

Sec. 27, SE¼SW¼ and SW¼SE¼;
Sec. 32, NE¼SE¼ and S½SE¼;
Sec. 33, SW¼;
Sec. 34, E½, E½NW¼, and E½SW¼;
Sec. 35, NW¼SW¼, S½SW¼, and SE¼;
Sec. 36, NW¼SW¼.
T. 6 S., R. 21 E.,
Sec. 1, lots 1 thru 3, S½NE¼, SE¼NW¼, E½SW¼, and SE¼;
Sec. 2, lot 4, SW¼NW¼, and W½SW¼;
Sec. 3, lots 1 thru 3, S½NE¼, S½NW¼, N½SW¼, SE¼SW¼, and SE¼;
Sec. 4, lots 3 and 4, S½NW¼, and S½;
Sec. 5, lots 1 and 2, S½NE¼, and E½SE¼;
Sec. 8, E½NE¼ and E½SE¼;
Sec. 9, NW¼NE¼, NW¼, and S½;
Sec. 10, NE¼ and S½;
Sec. 11, W½NW¼, NW¼SW¼, S½SW¼, and SW¼SE¼;
Sec. 12, E½, E½NW¼, and E½SW¼;
Sec. 13, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 14, N½, N½SW¼, and N½SE¼;
Sec. 15, NE¼ and N½NW¼;
Sec. 17, NE¼, SE¼SW¼, N½SE¼, and SW¼SE¼;
Sec. 19, lots 5 thru 12, S½NE¼, and N½SE¼;
Sec. 20, W½NE¼, NW¼, and S½;
Sec. 28, N½SW¼ and SE¼;
Sec. 29, E½, E½NW¼, and NE¼SW¼;
Sec. 30, lots 2 and 3;
Sec. 35, SE¼NW¼ and NE¼SW¼.
T. 7 S., R. 21 E.,
Sec. 6, lot 7;
Sec. 7, lots 1 thru 3, E½, E½NW¼, and E½SW¼;
Sec. 8, SW¼SW¼;
Sec. 17, W½NW¼ and W½SW¼;
Sec. 18, lots 1 thru 3, E½, E½NW¼, and E½SW¼;
Sec. 19, lot 4, NE¼, SE¼SW¼, N½SE¼, and SE¼SE¼;
Sec. 20, W½NW¼, SW¼, NW¼SE¼, and S½SE¼;
Sec. 25, NE¼SW¼, S½SW¼, and SE¼;
Sec. 26, S½SE¼;
Sec. 29, N½ and W½SW¼;
Sec. 30, lots 1 and 2, E½, and E½NW¼;
Sec. 31, lots 1 thru 4, NE¼, E½SW¼, NE¼SE¼, and S½SE¼;
Sec. 32, SW¼NE¼, NW¼, and S½;
Sec. 33, S½;
Sec. 34, S½SW¼ and S½SE¼;
Sec. 35, E½ and S½SW¼.
T. 8 S., R. 21 E.,
Sec. 1, lots 1 thru 4, S½NE¼, S½SW¼, and SE¼;
Sec. 2, lots 1 thru 4, S½SW¼, and S½SE¼;
Sec. 3, lots 1 thru 4, S½NE¼, S½NW¼, SW¼, NW¼SE¼, and S½SE¼;
Sec. 4, lots 1 thru 4;
Sec. 5, lots 1 thru 4, S½NE¼, S½NW¼, E½SW¼, and SE¼;
Sec. 6, lots 1 thru 5, lot 7, SE¼NE¼, and SE¼NW¼;
Sec. 7, lots 1 thru 4, E½, E½NW¼, and SE¼SW¼;
Sec. 8, W½NE¼, W½, and W½SE¼;
Sec. 10, N½NW14 and SE¼NW¼;
Sec. 11, S½SE¼;
Sec. 12, NE¼, E½NW¼, SW¼, N½SE¼, and SE¼SE¼;
Sec. 13, E½SW¼ and SE¼;
Sec. 14, N½NE¼, SW¼NE¼, NW¼, N½SW¼, SE¼SW¼, and W½SE¼;
Sec. 15, SE¼NE¼;
Sec. 17, N½, N½SW¼, SE¼SW¼, and SE¼;
Sec. 18, lots 1 thru 4, N½NE¼, E½NW¼, and E½SW¼;
Sec. 19, lots 1 thru 4, E½NW¼, E½SW¼, and W½SE¼;
Sec. 20, NE¼ and E½SE¼;
Sec. 21, NW¼ and S½;
Sec. 22, S½NE¼ and SE¼NW¼;
Sec. 23, NE¼, NE¼NW¼, and S½NW¼;
Sec. 24, N½NE¼, SE¼NE¼, and N½NW¼;
Sec. 28, W½ and SW¼SE¼;
Sec. 29, NE¼NE¼, S½NE¼, NW¼, and E½SE¼;
Sec. 30, lots 1 thru 4, N½NE¼, SW¼NE¼, E½NW¼, E½SW¼, and W½SE¼;
Sec. 31, lots 1 thru 3, NW¼NE¼, S½NE¼, E½NW¼, E½SW¼, and SE¼;
Sec. 32, NE¼;
Sec. 33, NW¼NE¼ and N½NW¼;
T. 6 S., R. 22 E.,
Sec. 32, lots 2 thru 4, N½SW¼, and NW¼SE¼.
T. 7 S., R. 22 E.,
Sec. 3, lots 2 thru 4, SW¼NE¼, S½NW¼, SW¼, and W½SE¼;
Sec. 5, S½;
Sec. 6, lot 2, S½NE¼, and NE¼SE¼;
Sec. 8;
Sec. 9, SW¼NW¼ and W½SW¼;
Sec. 10, W½NE¼, W½, and W½SE¼;
Sec. 14, S½SW¼;
Sec. 15, W½NE¼, W½, NW¼SE¼, and S½SE¼;
Sec. 17, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 19, SE¼SW¼ and S½SE¼;
Sec. 20, W½NE¼, W½, NW¼SE¼, and S½SE¼;
Sec. 21, E½, E½NW¼, and E½SW¼;
Sec. 22, N½NE¼, SE¼NE¼, NW¼, and E½SE¼;
Sec. 23, W½;
Sec. 26, W½;
Sec. 27, E½NE¼, W½NW¼, NW¼SW¼, S½SW¼, NE¼SE¼, and S½SE¼;
Sec. 28, E½, E½NW¼, NE¼SW¼, and S½SW¼;
Sec. 29;
Sec. 30, lots 1, 2, and 4, E½, E½NW¼, and E½SW¼;
Secs. 31 thru 33;
Sec. 34, N½, SW¼, and E½SE¼;
Sec. 35, N½NE¼ and W½.
T. 8 S., R. 22 E.,
Sec. 3, lot 4;
Secs. 4 thru 7;
Sec. 8, N½ and SW¼;
Sec. 17, W½;
Sec. 18, lots 1, 2, and 4, N½NE¼, SE¼NE¼, E½NW¼, SE¼SW¼, NE¼SE¼, and S½SE¼;
Sec. 19, lots 1 thru 4, N½NE¼, E½NW¼, and SE¼SE¼;
Sec. 20, W½.

The areas described aggregate 106,555.88 acres, according to the official plats of the surveys of the said lands, on file with the BLM.

To process the ROW application on the above lands, the BLM is segregating the land under the authority in 43 CFR 2091.3–2 and 43 CFR 2804.25(f)(1), for a period of up to two years, subject to valid existing rights. This two-year segregation period will commence on August 20, 2021. The public land involved in this closure will be segregated from appropriation under the public land and mining laws, but not the mineral leasing or material sale laws. It has been determined that this segregation is necessary for the orderly administration of the public land.

The segregation period will terminate and the land will automatically reopen to appropriation under the public land laws, including the mining laws, if one of the following events occurs: (1) Upon the issuance of a decision by the authorized officer granting, granting with modifications, or denying the application for a ROW; (2) Upon publication of a **Federal Register** notice terminating the segregation; or (3) Without further administrative action at the end of the segregation provided for in the **Federal Register** notice initiating the segregation, whichever occurs first. Any segregation made under this authority is effective for two years and may be extended by the BLM Idaho State Director for up to two years through the issuance of a **Federal Register** notice explaining the reasons for an extension. Segregations under 43 CFR 2804.25(f)(3) may only be extended once and the total segregation period may not exceed four years. Upon termination of segregation, all lands subject to this segregation will automatically reopen to appropriation under the public land laws.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 42 U.S.C. 4321 *et seq.,* 40 CFR 1501.9, 43 CFR 2091.3–2, and 43 CFR 2804.25(f).

Michael C. Courtney,

District Manager, Twin Falls District.

[FR Doc. 2021–17920 Filed 8–19–21; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLHQ310000.L13100000.PP0000; OMB Control No. 1004–0179]

Agency Information Collection Activities; Helium Contracts

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Bureau of Land Management (BLM) proposes to renew an information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 20, 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: To request additional information about this ICR, contact Jennifer Spencer by email at *j35spenc@blm.gov,* or by telephone at 307–775–6261. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 5, 2021 (86 FR 23979). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: This control number authorizes the BLM to collect information that enables in-kind sales of helium in accordance with the Helium Stewardship Act (50 U.S.C. 167–167q) and 43 CFR part 3195. OMB control number 1004–0179 is scheduled to expire on October 31, 2021. This request is for OMB to renew this OMB control number for an additional three years.

There are no program, form, or other policy changes proposed with this renewal request. The BLM is requesting, however, that the burden for this OMB control number be adjusted from 240 to 244 total annual burden hours. The change in burden results from changes to the number of respondents for each information collection (form number) approved under this OMB control number.

Title of Collection: Helium Contracts (43 CFR part 3195).

OMB Control Number: 1004–0179.

Form Numbers: 3195–1; 3195–2; 3195–3; and 3195–4.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Private helium merchants that sell a major helium requirement (*i.e.,* an amount of refined helium greater than 200,000 standard cubic feet of refined gaseous helium or 7,510 liters of liquid helium) to a Federal agency or to private helium purchasers for use in Federal Government contracts.

Total Estimated Number of Annual Respondents: 40.

Total Estimated Number of Annual Responses: 94.

Estimated Completion Time per Response: 6–8 hours.

Total Estimated Number of Annual Burden Hours: 642.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Quarterly for the Refined Helium Deliveries Detail (Form 3195–4); Annually for the Calculation of Excess Refining Capacity (Form 3195–1) and Refiners' Annual Tolling Report (Form 3195–2); and On occasion for the Refiners' Tolling Occurrence Report (Form 3195–3).

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Darrin King,

Information Collection Clearance Officer.

[FR Doc. 2021–17836 Filed 8–19–21; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLHQ310000.L13100000.PP0000; OMB Control No. 1004–0211]

Agency Information Collection Activities; Production Subject to Royalties, and Resource Conservation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) proposes to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before September 20, 2021.

ADDRESSES: Written comments and recommendations for the proposed Information Collection Request (ICR)

should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Jennifer Spencer by email at *j35spenc@blm.gov,* or by telephone at 307–775–6261. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 25, 2021 (86 FR 28142). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BLM's royalty-free standards contained in 43 CFR parts 3160 and 3170 apply to Federal and Indian (except Osage Tribe) oil and gas leases. The information collection requirements contained in standards are designed to address circumstances under which oil or gas produced from onshore wells may be used royalty-free in operations. OMB Control Number 1004–0211 is scheduled to expire on November 30, 2021. This request is for OMB to renew this OMB Control Number for an additional three (3) years.

There are currently no policy revisions proposed in this request to OMB. The BLM is requesting, however, that OMB revise the burden estimates as a result of a court decision, *State of Wyoming* v. *DOI,* where the requirements of certain portions of Subsection 3179 were vacated resulting in a reduction of 1,025 responses and 3,610 burden hours for this OMB control number. Currently, there are 1,075 responses and 4,010 annual burden hours approved under this OMB Control Number, and the BLM is requesting that these burden numbers be revised downward to 50 responses and 400 hours.

Title of Collection: Production Subject to Royalties, and Resource Conservation (43 CFR parts 3160 and 3170).

OMB Control Number: 1004–0211.

Form Numbers: 3160–005.

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

Respondents/Affected Public: Holders of Federal and Indian (except Osage Tribe) oil and gas leases.

Total Estimated Number of Annual Respondents: 50.

Total Estimated Number of Annual Responses: 50.

Estimated Completion Time per Response: 8 hours.

Total Estimated Number of Annual Burden Hours: 400.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Darrin King,

Information Collection Clearance Officer.

[FR Doc. 2021–17846 Filed 8–19–21; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS01000 L5105.0000.EA0000 LVRCF2107650 21X MO#4500154529]

Notice of Temporary Closures of Public Lands for the 2021 Laughlin OHV Races in Clark County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Temporary closures.

SUMMARY: The Las Vegas Field Office announces the temporary closures of certain public lands under its administration. The Off-Highway Vehicle (OHV) race area in Laughlin, Nevada, is used by OHV recreationists, and the temporary closures are needed to limit their access to the race area and to minimize the risk of potential collisions with spectators and racers during three events: The 2021 UTV Legends Championship, the 2021 Laughlin Desert Classic, and the 2021 SNORE Laughlin Race.

DATES: The temporary closure for the 2021 UTV Legends Championship will go into effect at 12:01 a.m. on September 11, 2021, and will remain in effect until 11:59 p.m. on September 12, 2021. The temporary closure for the 2021 Laughlin Desert Classic will go into effect at 12:01 a.m. on September 25, 2021, and will remain in effect until 11:59 p.m. on September 26, 2021. The temporary closure for the 2021 SNORE Laughlin Race will go into effect at 12:01 a.m. on December 11, 2021, and will remain in effect until 11:59 p.m. on December 12, 2021.

ADDRESSES: The temporary closure order, communications plan, and map of the temporary closure area for each event will be posted at the BLM Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130, and on the BLM website: *www.blm.gov.* These materials will also be posted at

the access point of the Laughlin race area and surrounding areas.

FOR FURTHER INFORMATION CONTACT: Jenna Giddens, Outdoor Recreation Planner, 702–515–5156, or *jgiddens@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The Las Vegas Field Office announces the temporary closures of certain public lands under its administration. This action is being taken to help ensure public safety during the official permitted running of the 2021 UTV Legends Championship, 2021 Laughlin Desert Classic, and 2021 SNORE Laughlin Off-Highway Vehicle Races. The public lands affected by this closure are described as follows:

Mount Diablo Meridian, Nevada

T. 32 S., R. 66 E.,
Sec. 8, lots 2 thru 33;
Sec. 9;
Sec. 10, S½NE¼, S½NW¼, and S½;
Sec. 11, S½NE¼, S½NW¼, and S½;
Sec. 14;
Sec. 15, E½;
Sec. 16, N½, SW¼, and N½SE¼;
Sec. 17, lots 1 thru 8, lots 21 thru 25, and lots 30 thru 44.

The area described contains 4521.97 acres, according to the official plats of the surveys of the said lands on file with the BLM.

The temporary closures will be posted to roads leading into the public lands to notify the public of the closures for these events. The closures area includes State Route 163 to the north, T. 32 S., R. 66 E sections 8 and 17 to the west; private and State land in T. 32 S., R. 6 6E sections 20, 21, 22, and 23; and is bracketed by Bruce Woodbury Drive to the south and southwest and Thomas Edison Drive to the east. Under the authority of Section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 733(a)), 43 CFR 8360.0–7 and 43 CFR 8364.1), the BLM will enforce the following rules in the area described above:

The entire area as listed in the legal description above is closed to all vehicles and personnel except law enforcement, emergency vehicles, event personnel, event participants and spectators. Access routes leading to the closed area are closed to vehicles. No vehicle stopping or parking in the closed area except for designated parking areas will be permitted. Event participants and spectators are required to remain within designated areas only.

The following restrictions will be in effect for the duration of the closure to ensure public safety of participants and spectators. Unless otherwise authorized, the following activities within the closure area are prohibited:

- Camping;
- Possession and/or consuming any alcoholic beverage unless the person has reached the age of 21 years;
- Discharging or use of firearms, other weapons;
- Possession and/or discharging of fireworks;
- Allowing any pet or other animal in one's care to be unrestrained at any time. Animals must be on a leash or other restraint no longer than 3 feet;
- Operation of any vehicle which is not legally registered for street and highway operation (*e.g.,* All Terrain Vehicles (ATV), motorcycles, Utility Terrain Vehicles (UTV), golf carts, and any off-highway vehicle (OHV), including operation of such a vehicle in spectator viewing areas);
- Parking any vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, create a safety hazard, or endanger any person, property, or feature. Vehicles so parked are subject to citation, removal, and impoundment at the owner's expense;
- Operating a vehicle through, around or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier or device;
- Failing to maintain control of a vehicle to avoid danger to persons, property, or wildlife; and
- Operating a motor vehicle without due care or at a speed greater than 25 mph.

Signs and maps directing the public to designated spectator areas will be provided by the event sponsor.

Exceptions: Temporary closure restrictions do not apply to activities conducted under contract with the BLM, agency personnel monitoring the event, or activities conducted under an approved plan of operation. Authorized users must have in their possession a written permit or contract from the BLM, signed by the authorized officer.

Enforcement: Any person who violates this temporary closure may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Nevada law.

(Authority: 43 CFR 8360.0–7 and 8364.1)

Shonna Dooman,
Field Manager—Las Vegas Field Office.

[FR Doc. 2021–17897 Filed 8–19–21; 8:45 am]
BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[21X.LLHQ320000.L13200000.PP0000]

Notice of Intent To Conduct a Review of the Federal Coal Leasing Program and To Seek Public Comment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM), Headquarters Office seeks public comment on the Federal coal program in advance of the BLM's intended review of that program. The Department of the Interior (DOI) also intends to conduct government-to-government consultation with affected Indian tribes about the Federal coal leasing program and to consider the potential environmental, social, and cultural impacts of the coal program on indigenous communities and their lands during this review.

This notice solicits public comments for consideration in establishing the scope and content of the BLM's review of the Federal coal leasing program.

DATES: The BLM invites interested agencies, States, American Indian tribes, local governments, industry, organizations, and members of the public to submit comments or suggestions to assist in identifying significant issues that the BLM should consider in its review of the Federal coal program.

The BLM will consider all written comments received or postmarked during the public comment period which will close on September 20, 2021.

ADDRESSES: You may submit written comments by the following methods:

- *Email: BLM_HQ_320_CoalProgramReview@blm.gov.* This is the preferred method of commenting.
- *Mail, personal, or messenger delivery:* National Coal Program Review, In care of: Thomas Huebner, BLM Wyoming State Office, 5353 Yellowstone Rd., Cheyenne, WY 82009.

FOR FURTHER INFORMATION CONTACT: Lindsey Curnutt, Chief, Division of Solid Minerals, email: *lcurnutt@blm.gov,* telephone: 480–708–7339. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–

8339 to contact Ms. Curnutt. This 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: On January 15, 2016, Secretary of the Interior S.M.R. Jewell issued Order No. 3338 (Jewell Order), directing the BLM to conduct a broad, programmatic review of its Federal coal program through preparation of a Programmatic Environmental Impact Statement (PEIS) under the National Environmental Policy Act (NEPA). 42 U.S.C. 4321 *et seq.* The Jewell Order was issued in response to a range of concerns regarding the Federal coal program, including, in particular, concerns as to whether American taxpayers are receiving a fair return from the development of these publicly owned resources; concerns about fluctuating market conditions and attendant consequences for coal-dependent communities; and concerns about whether the leasing and production of large quantities of coal under the Federal coal program is consistent with the Nation's goals to reduce greenhouse gas emissions to mitigate climate change. The Jewell Order directed a pause on the issuance of new Federal leases for thermal (steam) coal, subject to certain enumerated exclusions, until completion of the PEIS.

On March 29, 2017, former Secretary Zinke issued Secretary's Order No. 3348 (Zinke Order) entitled, ''Concerning the Federal Coal Moratorium.'' The Zinke Order rescinded the Jewell Order, lifted the coal leasing pause, and halted preparation of the PEIS. On April 16, 2021, Secretary Haaland issued Secretary's Order 3398, which rescinded the Zinke Order (Haaland Order). While the Haaland Order did not reinstitute the Jewell Order, it directed the Department to ''review and revise as necessary all policies and instructions that implemented'' the revoked Secretary's Orders. This **Federal Register** Notice is intended to further the goals of the Haaland Order by beginning a new review of the Federal coal leasing program. The BLM has not approved a new coal lease sale since the Biden Administration took office.

Background

A. Overview of Federal Coal Program

Under the Mineral Leasing Act of 1920 (MLA), as amended, 30 U.S.C. 181 *et seq.,* and the Mineral Leasing Act for Acquired Lands of 1947 (MLAAL), as amended, 30 U.S.C. 351 *et seq.,* the BLM is responsible for the leasing of Federal coal and regulation of the development of that coal on the approximately 700 million acres of mineral estate that is owned by the Federal Government. This responsibility includes Federal mineral rights on Federal lands and Federal mineral rights located under surface lands with non-Federal ownership. Other Departmental bureaus, particularly the Office of Surface Mining Reclamation and Enforcement (OSMRE) and the Office of Natural Resources Revenue (ONRR), also take actions related to coal mining on Federal lands. The OSMRE, and States that have obtained regulatory primacy under the Surface Mining Control and Reclamation Act of 1977 (SMCRA), permit coal mining and reclamation activities, and monitor reclamation and reclamation bonding actions. The ONRR collects and audits all payments required under a Federal lease, including bonus bids, royalties, and rental payments, and distributes those funds, pursuant to statute, between the U.S. Treasury and the States where the coal resources are located, 30 U.S.C. 191(a).

1. Federal Coal Leasing and Production

In recent years and on average, approximately 42 percent of the Nation's annual coal production came from Federal lands. Federal coal produced from the Powder River Basin in Montana and Wyoming accounts for over 85 percent of all Federal coal production.

As of Fiscal Year 2020, the BLM administered 287 coal leases, covering 437,039 acres in 11 States, with an estimated 7 billion tons of recoverable Federal coal. Over the last decade (2011–2020), the BLM sold 17 coal leases and managed leases that produced approximately 3.7 billion tons of coal and resulted in $9.2 billion in revenue collections by the United States.

The U.S. Energy Information Administration (EIA) estimates total U.S. coal production in 2020 was about 534 million short tons (MMst), 24 percent lower than in 2019.[1] EIA estimates that U.S. total annual coal imports reached a record high of about 36 million short tons in 2007. In 2020, the United States imported about 5 MMst of coal, which was equal to about 1 percent of U.S. coal consumption in 2020.[2]

2. Federal Coal Program

The current BLM coal leasing program includes land use planning, the processing of applications (*e.g.,* applications for exploration licenses and lease sales), estimation of the value of proposed leases, lease sales, and post-leasing actions (*e.g.,* production verification, lease and production inspection and enforcement, royalty reductions, and bond review).

The Federal Government receives revenue from coal leasing in three ways: (1) A bonus that is paid at the time the BLM issues a lease; (2) Rental fees; and (3) Production royalties. The royalty rates are set by regulation at a fixed 8 percent for underground mines and not less than 12.5 percent for surface mines. For coal leases outside of Alaska, Treasury pays approximately 50 percent of receipts to the State where the leased lands are located, 30 U.S.C. 191(a). For leases and mineral deposits in Alaska, Treasury pays 90 percent of the receipts to the State, 30 U.S.C. 191(a).[3] Federal coal development provides coal producing states like Wyoming, Montana, Utah, and Colorado with significant income and other economic benefits.

The BLM's planning process for Resource Management Plans, supported by environmental analysis under NEPA, identifies areas that are potentially available to be considered for coal leasing. The planning process considers, among other things, the impacts of a ''reasonably foreseeable development scenario,'' but it does not directly authorize any coal leasing or determine which coal will be leased.

The Federal Coal Leasing Amendments Act of 1976 (FCLAA), which amended Section 2 of the Mineral Leasing Act of 1920, requires that, with limited exceptions, Federal lands available for coal leasing be sold by competitive bid, with the BLM receiving fair market value for the lease. While multiple bids are not required, all successful bids must equal or exceed the estimated pre-sale fair market value for the lease, as calculated by the BLM. Competitive leasing is not required for: (1) Preference right lease applications for owners of pre-FCLAA prospecting permits; and (2) Modifications of existing leases, where Congress has authorized the Secretary to allow up to 960 acres (increased from 160 acres by the Energy Policy Act of 2005) of

[1] U.S. EIA, *Coal Data* (August 4, 2021) (*https://www.eia.gov/coal/data/browser/*).

[2] U.S. EIA, *Coal Data* (July 20, 2021) (*https://www.eia.gov/energyexplained/coal/imports-and-exports.php*).

[3] Payments to the States are ''reduced by 2 percent for any administrative or other costs incurred by the United States,'' and ''the amount of such reduction shall be deposited to miscellaneous receipts of the Treasury.'' 30 U.S.C. 191(b).

contiguous lands for noncompetitive leasing by modifying an existing lease.

The BLM issued coal leasing regulations in 1979 that provided for two separate competitive coal leasing processes: (1) Regional leasing, where the BLM selects tracts within a region for competitive sale; and (2) Leasing by application, where an industry applicant nominates a particular tract of coal for competitive sale.

Regional coal leasing requires the BLM to select potential coal leasing tracts based on land use planning, expected coal demand, and potential environmental and economic impacts.[4] This process includes use of a Federal/State advisory board known as a Regional Coal Team [5] to provide input on leasing decisions. The regional leasing system has not been used since 1990, and currently all BLM coal leasing relies on applications.[6] Leasing by application begins with an application to lease a tract of coal identified by the applicant.[7] The BLM reviews the application for completeness to ensure that it conforms to existing land use plans and to ensure that it contains sufficient geologic data to determine the fair market value of the coal. The agency then prepares an analysis under NEPA (either an Environmental Assessment or an EIS) and seeks public comment on the proposed lease sale. Through this process, the BLM evaluates alternative tract configurations to maximize competitiveness and value, and to avoid bypassing Federal coal. The BLM also consults with other appropriate Federal and State agencies and Tribal governments, and the BLM determines whether the surface manager consents to leasing in situations where the surface is not administered by the BLM.

Preparations for the actual lease sale begin with the BLM formulating, after obtaining public comment, a pre-sale estimate of the fair market value of the coal. This estimate is confidential and is used to evaluate the bids for the lease ''bonus'' received during the sale. Sealed bids are accepted prior to the date of the sale and are publicly announced during the sale. The winning bid is the highest bid that meets or exceeds the coal tract's presale estimated fair market value from an applicant that meets all eligibility requirements and has paid the appropriate fees and payments.

There are two separate bonding requirements for Federal coal leases. The BLM requires a bond adequate to ensure compliance with the terms and conditions of the lease that must cover a portion of potential liabilities associated with the bonus bid, rental fees, and royalties. In addition, under SMCRA, the OSMRE or the State with regulatory primacy requires sufficient bonding to cover anticipated reclamation costs.

A Federal coal lease has an initial term of 20 years, but it may be terminated after 10 years if the coal resources are not diligently developed, 30 U.S.C. 207. Existing leases that have met their diligence requirements may be renewed for additional 10-year terms following the initial 20-year term.

3. Previous Comprehensive Reviews

The Department has previously conducted two separate, comprehensive reviews of the Federal coal program. In the late 1960s, there were serious concerns about speculation in the coal leasing program. A BLM study discovered a sharp increase in the total Federal acreage under lease and a consistent decline in coal production. In response, the Department undertook the development of a planning system to determine the size, timing, and location of future coal leases, and the preparation of a PEIS for the entire Federal coal leasing program. Beginning in February 1973, the Department instituted a complete moratorium on the issuance of new coal prospecting permits, and a moratorium with limited exceptions on the issuance of new Federal coal leases: New leases were issued only to maintain existing mines or to supply reserves for production, where ''near future'' meant that development and production were to commence within 3 and 5 years, respectively. The moratorium was scaled back over time, but was not completely lifted until 1981, after the PEIS had been completed, a new leasing system had been adopted through regulation, and litigation was resolved.

In 1982, concerns about the Federal coal program arose again, this time related to allegations that the Government did not receive fair market value from a large lease sale in the Powder River Basin under the new procedures adopted as part of the programmatic review in the 1970s. Among other reports on the issue, the Government Accountability Office (GAO) issued a report in May 1983 concluding that the Department had received roughly $100 million less than it should have for the sale. In response, in July 1983, Congress directed the Secretary to appoint members to a commission, known as the Linowes Commission, to investigate fair market value policies for Federal coal leasing. Congress also, in the 1984 Appropriations Act, directed the Office of Technology Assessment (OTA) to study whether the Department's coal leasing program was compatible with the nationally mandated environmental protection goals.

As part of the 1984 Appropriations Bill, Congress imposed a moratorium on the sale or lease of coal on public lands, subject to certain exceptions, starting in 1983 and ending 90 days after publication of the Linowes Commission's report. The Linowes Commission published the *Report of the Commission on Fair Market Value Policy for Federal Coal Leasing* in February 1984. The OTA report, *Environmental Protection in the Federal Coal Leasing Program,* was released in May 1984. The principal message of these reports was that the Department should: (1) Temper its pace of coal leasing; (2) improve and better document its procedures for receiving fair market value; and (3) take care to balance competing resource uses in making lease decisions.

Secretary of the Interior William P. Clark extended the suspension of coal leasing (with exceptions for emergency leasing and processing preference right lease applications, among others) while the Department completed its comprehensive review of the program. This review included proposed modifications to be made by the Department in response to the Linowes Commission and OTA reports. Secretary Clark announced on August 30, 1984, that the Department would prepare an EIS supplement to the 1979 Programmatic EIS for the Federal coal management program. The Department issued the Record of Decision for the Programmatic EIS supplement in January 1986, in the form of a Secretarial Issue Document. That document recommended continuation of the leasing program with modifications. In conjunction with those modifications, Secretary of the Interior Donald Hodel lifted the coal leasing moratorium in 1987.

On March 17, 2015, Secretary S.M.R. Jewell called for ''an honest and open conversation about modernizing the Federal coal program.'' As described

[4] 43 CFR part 3420.

[5] The BLM regulations require a Regional Coal Team to be established for each coal production region, comprised of representatives from the BLM and the Governors of each State in the region. The Regional Coal Teams are to guide the coal planning process for each coal production region, serve as the forum for BLM and State consultation, and make recommendations on coal leasing levels. 43 CFR 3400.4.

[6] While the Powder River Basin (PRB) coal production region was decertified in 1992, the PRB regional coal team is still in place and meets periodically to review regional activity and make recommendations on coal leasing in the region.

[7] *See* 43 CFR subpart 3425.

above, the last time the Federal coal program underwent comprehensive review was in the mid-1980s, and market conditions, infrastructure development, scientific understanding, and national priorities have changed considerably since that time. The Secretary's call also responded to continued concerns from numerous stakeholders about the Federal coal program, including concerns raised by the GAO,[8] the Department's Office of Inspector General (OIG),[9] members of Congress, interested stakeholders, and the public. The concerns raised by the GAO and OIG were centered on whether taxpayers receive a fair return from the sale of federal coal. Others raised concerns that the current Federal leasing structure lacks transparency and competition and is therefore not ensuring that the American taxpayer receives a fair return from Federal coal resources, while also raising questions regarding current market conditions for the coal industry and related implications for Federal resources. Stakeholders also questioned whether the leasing program results in over-supply of a commodity that has significant environmental and health impacts, including impacts on global climate change.

In response to the Secretary's call for a conversation to address these concerns, the BLM held five listening sessions regarding the Federal coal program in the summer of 2015. Sessions were held in Washington, DC; Billings, Montana; Gillette, Wyoming; Denver, Colorado; and Farmington, New Mexico. The Department heard from 289 individuals during the sessions and received more than 92,000 written comments before the comment period closed on September 17, 2015. The oral and written comments reflected several recurring themes:

- Concern about global climate change and the impact of coal production and use.
- Concern about the loss of jobs and local revenues if coal production is reduced.
- Support for increased transparency and public participation in leasing and royalty decisions and concern that the structure of the leasing program does not provide for adequate competition or a fair return to the taxpayer for the use of Federal resources.
- Support for increasing coal royalty rates because: (1) Taxpayers are not receiving a fair return, in part because the royalty rate should match that for offshore oil and gas leases; and (2) the royalty rate should account for the environmental costs of coal production.
- Support for maintaining or lowering coal royalty rates because: (1) The coal industry already pays more than its fair share and existing Federal rates are too high given current market conditions; (2) raising rates will lower production and revenues; and (3) raising rates will cost jobs and harm communities.
- Support for streamlining the current leasing process, so that the Federal coal program is administered in a way that better promotes economic stability and jobs, especially in coal communities which are already suffering from depressed economic conditions.

After conducting these listening sessions, Secretary Jewell determined that three areas of the program received the most attention from the public: Concerns that American taxpayers were not receiving a fair return on public coal resources, that the program conflicted with national climate policy and goals, and that the structure of the program needed review considering current market conditions. To address the issues raised during these sessions, on January 15, 2016, Secretary Jewell issued Secretary's Order 3338, directing the BLM to conduct a broad, programmatic review of the Federal coal program through the preparation of a discretionary Programmatic EIS under NEPA, 42 U.S.C. 4321 *et seq.* A Notice of Intent for the Programmatic EIS was published in March 2016, and a scoping report was published on January 11, 2017.

On March 29, 2017, former Secretary Zinke issued Secretary's Order No. 3348 (Zinke Order) entitled, ''Concerning the Federal Coal Moratorium.'' The Zinke Order rescinded the Jewell Order, lifted the coal leasing pause, and halted the preparation of the Programmatic EIS.

On January 20, 2021, President Biden issued Executive Order 13990, ''Executive Order on Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis.'' On April 16, 2021, Secretary Deb Haaland issued Secretary's Order 3398, which rescinded the Zinke Order. The Department's programmatic review of the Federal coal program furthers the goals of the Haaland Order.

In announcing this review and soliciting comments, the Department notes that the regional leasing program authorized in the 1979 regulations has not worked as envisioned and, instead, the BLM has conducted leasing only in response to industry applications. Given previous concerns about the lack of competition in the lease-by-application system, as well as consideration of the Biden Administration's environmental goals, the BLM is beginning a new review of the Federal coal leasing program and seeks comments on whether the current regulatory framework should be changed to provide better mechanisms to decide which coal resources should be made available and how the leasing process should work, including when and where to lease. The BLM is also seeking comments on the following topics:

a. Fair Return

The BLM is seeking comments on whether the bonus bids, rents, and royalties received under the Federal coal program are successfully securing a fair return to the American public for Federal coal, and, if not, what adjustments could be made to provide such compensation.

b. Climate Impacts

The BLM seeks comments on how best to measure and assess the climate impacts of continued Federal coal production, transportation, and combustion.

c. Other Impacts

The BLM seeks comments on other potential impacts on public health and the environment, such as the effects of coal production on: The quantity and quality of water resources, including aquifer drawdown and impacts on streams and alluvial valley floors; air quality and the associated effects on health and visibility; wildlife, including endangered species; and other land uses such as grazing and recreation.

d. Socio-Economic Considerations

The BLM seeks comments on whether the current Federal coal leasing program adequately accounts for externalities related to Federal coal production, including environmental and social impacts.

e. Exports

The BLM seeks comments addressing whether and, if so, how leasing decisions should consider actual and/or projected exports of domestic coal collectively or from any given tract and potential mechanisms that could be used to appropriately evaluate export potential.

f. Energy Needs

Finally, the BLM seeks comments on how Federal coal supports fulfilling the energy needs of the United States.

[8] GAO, *Coal Leasing: BLM Could Enhance Appraisal Process, More Explicitly Consider Coal Exports, and Provide More Public Information,* GAO 14–140 (Dec. 2013).

[9] OIG, *Coal Management Program, U.S. Department of the Interior,* Report No.: CR–EV–BLM–0001–2012 (June 2013).

The BLM also welcomes suggestions for other potential approaches to the Federal coal program including approaches that may differ from those articulated below. We encourage commenters to be as specific as possible in identifying the types of changes to the program that the BLM should consider, including changes to regulations, guidance, and management practices.

BLM also solicits input on the following:

1. Potential new leasing models, or potential reforms to the previous or existing leasing models of regional leasing and lease by application;
2. Other approaches to increase competition in the leasing process;
3. Data or analyses that justify a specific change to the royalty rate;
4. Potential approaches to improve the pre-sale estimate of fair market value;
5. Whether, and how, to account in the leasing process for the extent to which reclamation responsibilities have been met;
6. Potential approaches to design a ''budget'' for the amount of Federal coal and/or acreage to be leased over a given period; and
7. How to account for export potential in the leasing process.

In submitting written comments, individuals should be aware that their entire comment—including personal identifying information (including address, phone number, and email address)—may be made publicly available at any time. While the commenter can request in the comment that the commenter's personal identifying information be withheld from public review, this cannot be guaranteed. All comments from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

The DOI will consult with Indian tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with Tribes and other stakeholders that may be interested in or affected by the Federal coal program, are invited to participate in the review.

Following closure of the comment period, the BLM will prepare a comment summary report, make the report available to the public, and will detail the scope and form of its programmatic review. The BLM's goal is to announce additional steps for the programmatic review by November 2021.

(Authority: 43 U.S.C. 1701 *et seq.,* 30 U.S.C. 181 *et seq.,* 30 U.S.C. 351 *et. seq.*)

Nada Wolff Culver,

Deputy Director, Programs and Policy, Bureau of Land Management.

[FR Doc. 2021–17827 Filed 8–19–21; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0072; Docket ID: BOEM–2017–0016]

Agency Information Collection Activities; Commercial Prospecting, Noncommercial Geological and Geophysical Exploration, and Scientific Research for Minerals Other Than Oil, Gas, and Sulfur on the Outer Continental Shelf

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) proposes to renew an information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 20, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent to the Office of Management and Budget's Desk Officer for the Department of the Interior within 30 days of publication of this notice at *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference Office of Management and Budget (OMB) Control Number 1010–0072 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Anna Atkinson by email at *anna.atkinson@boem.gov* or by telephone at 703–787–1025.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, BOEM provides the general public and Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of the information collection requirements and minimize the public's reporting burden. It also helps the public understand BOEM's information collection requirements.

Title of Collection: Commercial Prospecting, Noncommercial Geological and Geophysical Exploration, and Scientific Research for Minerals Other Than Oil, Gas, and Sulfur on the Outer Continental Shelf.

Abstract: This ICR covers the information collection requirements in 30 CFR part 580, ''Prospecting for Minerals Other than Oil, Gas, and Sulphur [1] on the Outer Continental Shelf [OCS],'' which concern commercial prospecting and scientific research. This request also includes information collection requirements related to authorizations of noncommercial geological and geophysical (G&G) exploration issued pursuant to section 11 of the Outer Continental Shelf Lands Act (OCS Lands Act), as amended (43 U.S.C. 1340 *et seq.,* and 43 U.S.C. 1801 *et seq.*).

The OCS Lands Act authorizes the Secretary of the Interior (Secretary) to prescribe rules and regulations to administer leasing of mineral resources on the OCS. Section 8 of the OCS Lands Act authorizes the Secretary ''to grant to the qualified persons offering the highest cash bonuses on a basis of competitive bidding leases of any mineral other than oil, gas, and sulphur in any area of the [O]uter Continental Shelf not then under lease for such mineral upon such royalty, rental, and other terms and conditions as the Secretary may prescribe at the time of offering the area for lease.'' 43 U.S.C. 1337(k)(1). Additionally, the Secretary may noncompetitively negotiate agreements for the use of OCS sand, gravel, and shell resources for use in shore protection, beach restoration, or coastal wetlands restoration projects undertaken by a Federal, State, or local government agency, or for use in a construction project funded in whole or in part by or authorized by the Federal Government. 43 U.S.C. 1337(k)(2).

Section 11 of the OCS Lands Act states that ''any person authorized by the Secretary may conduct geological and geophysical explorations in the [O]uter Continental Shelf, which do not

[1] BOEM acknowledges that the generally and scientifically accepted spelling for this compound is sulfur. Throughout this notice, BOEM uses the spelling consistent with its current regulations.

interfere with or endanger actual operations under any lease maintained or granted pursuant to this subchapter, and which are not unduly harmful to aquatic life in such area.'' 43 U.S.C. 1340(a)(1). The OCS Lands Act defines the term ''exploration'' to mean the process of searching for minerals by, among other things, ''geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals.'' 43 U.S.C. 1331(k). Section 11 authorizes permits or authorizations for geological exploration only if the Secretary determines that the applicant is qualified and the exploration will neither interfere with operations on an existing lease, unduly harm aquatic life in the area, result in pollution, create hazardous or unsafe conditions, unreasonably interfere with other uses of the area, nor disturb any site, structure, or object of historical or archaeological significance. 43 U.S.C. 1340(g).

BOEM considers applications for commercial prospecting and noncommercial exploration for marine minerals, as well as scientific research related to marine minerals. Under 30 CFR part 580, G&G prospecting by any person on unleased lands or on lands leased to a third party requires a BOEM permit. G&G activities conducted for scientific or academic purpose require submission of a scientific research notice.[2] See 30 CFR 580.11. Because 30 CFR part 580 does not apply to noncommercial exploration, such activities are authorized directly pursuant to section 11 of the OCS Lands Act. Noncommercial exploration includes searching for sand, gravel, and other sources of sediment for potential use in qualifying beach nourishment and coastal restoration projects.

As a Federal agency, BOEM must comply with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), Endangered Species Act (16 U.S.C. 1531 *et seq.*), National Historic Preservation Act (54 U.S.C. 300101 *et seq.*), and Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*), among other environmental laws. Compliance with the Endangered Species Act includes a substantive duty to carry out agency action in a manner that is unlikely to jeopardize protected species or adversely modify designated critical habitat and a procedural duty to consult with the U.S. Fish and Wildlife Service and National Marine Fisheries Service, as applicable, before engaging in a discretionary action that may affect a protected species.

Under 30 CFR 580.12(a), applicants must submit form BOEM–0134, ''Requirements for Geological and Geophysical Prospecting, Exploration, or Scientific Research on the Outer Continental Shelf Related to Minerals Other than Oil, Gas, and Sulphur,'' to provide the information necessary to evaluate requests to conduct G&G activities for commercial prospecting, noncommercial exploration, and certain scientific research.[3] Under 30 CFR 580.11(b) and 580.12(c), a notice must be filed with BOEM for scientific research activities that do not involve explosives, deep stratigraphic drilling, or proprietary interests in the collected data. BOEM uses the submitted information for several purposes: (1) To ensure there are neither adverse effects to the marine, coastal, or human environments nor unreasonable interferences with other uses; (2) to enhance personal and operational safety; (3) to analyze and evaluate preliminary or planned mining activities; (4) to monitor progress and activities on the OCS; (5) to acquire G&G data and information collected under a Federal permit or authorization; and (6) to determine eligibility for reimbursement from the Government for certain costs.

Upon approval, BOEM issues applicants a permit or an authorization (as currently titled form BOEM–0135, ''Permit for Geophysical Prospecting for Mineral Resources or Scientific Research on the Outer Continental Shelf Related to Minerals Other than Oil, Gas, and Sulphur,'' or form BOEM–0136, ''Permit for Geological Prospecting for Mineral Resources or Scientific Research on the Outer Continental Shelf Related to Minerals Other than Oil, Gas, and Sulphur).

BOEM may use the information collected during G&G activities to understand the characteristics of marine mineral-bearing physiographic regions of the OCS. The information aids BOEM in analyzing and weighing the potential for environmental damage, the discovery of marine minerals, and any associated impacts on adjacent coastal States.

OMB Control Number: 1010–0072.

Form Number: Please note: Upon OMB approval of this ICR, BOEM will implement new titles for the three existing forms discussed previously as follows. BOEM–0134, ''Requirements for Geological and Geophysical Prospecting, Exploration, or Scientific Research on the OCS Related to Minerals Other Than Oil, Gas, and Sulphur.''

The following forms are the permits or authorizations issued by BOEM based on information provided in BOEM–0134:

BOEM–0135, ''Permit for Geophysical Prospecting, Authorization of Noncommercial Geophysical Exploration or Permit for Scientific Research Related to Minerals Other Than Oil, Gas, and Sulphur on the Outer Continental Shelf.''

BOEM–0136, ''Permit for Geological Prospecting, Authorization of Noncommercial Geological Exploration, or Permit for Scientific Research Related to Minerals Other Than Oil, Gas, and Sulphur on the Outer Continental Shelf.''

Type of Review: Renewal of a currently approved collection.

Respondents/Affected Public: Permittees, applicants, and other respondents, including those required to only file notices (scientific research).

Total Estimated Number of Annual Responses: 49 responses.

Total Estimated Number of Annual Burden Hours: 730 hours.

Respondent's Obligation: Mandatory or required to obtain or retain a benefit.

Frequency of Collection: On occasion, annual, or as specified in permits or authorizations.

Total Estimated Annual Non-Hour Burden Cost: $4,024 non-hour cost burden.

Estimated Reporting and Recordkeeping Hour Burden: BOEM estimates 730 burden hours for this renewal, which is a 245-hour increase in annual burden hours over the currently approved information collection. The increase in burden hours is attributed to the expected increase in the number of annual applications, permits, and authorizations.

A **Federal Register** notice with a 60-day public comment period on this proposed ICR was published on April 5, 2021 (86 FR 17636). BOEM did not receive any comments during the 60-day comment period.

BOEM is again soliciting comments on this proposed ICR. BOEM is especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of BOEM; (2) what can BOEM do to ensure this information will be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might BOEM enhance the quality, utility, and clarity of the

[2] A permit is required for scientific research activities that involve the use of solid or liquid explosives, the drilling of a deep stratigraphic test, or the development of data for proprietary use or sale. 30 CFR 580.11(a).

[3] Form BOEM–0134 is required for scientific research activities involving explosives, deep stratigraphic drilling, or proprietary interests in the collected data. 30 CFR 580.11(a)(1)–(3).

information to be collected; and (5) how might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Comments that you submit in response to this notice are a matter of public record. BOEM will include or summarize each comment in its request to OMB for approval of this ICR. You should be aware that your entire comment—including your address, phone number, email address, or other personally identifying information—may be publicly disclosed. In order to inform BOEM's decision whether it can withhold from disclosure your personally identifiable information, you must identify any information contained in your comment that, if released, would clearly constitute an unwarranted invasion of your privacy. Also, you must briefly describe possible harmful consequences of disclosing that information, such as embarrassment, injury, or other harm. While you can ask BOEM in your comment to withhold your personally identifiable information from public disclosure, BOEM cannot guarantee that it will be able to do so.

BOEM protects proprietary information in accordance with the Freedom of Information Act (FOIA, 5 U.S.C. 552), and the Department of the Interior's implementing regulations (43 CFR part 2).

A Federal agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is 44 U.S.C. 3501 *et seq.* (Paperwork Reduction Act of 1995).

Signed:

Deanna Meyer-Pietruszka,

Chief, Office of Policy, Regulation, and Analysis.

[FR Doc. 2021–17831 Filed 8–19–21; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2021–0066]

Notice of Availability of a Final Environmental Impact Statement for South Fork Wind, LLC's Proposed Wind Energy Facility Offshore Rhode Island

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability; final environmental impact statement.

SUMMARY: In accordance with National Environmental Policy Act (NEPA) regulations, BOEM announces the availability of the final environmental impact statement (FEIS) for the construction and operation plan (COP) submitted by South Fork Wind, LLC, (South Fork Wind) for its proposed South Fork Wind Farm (SFWF) and South Fork Export Cable (SFEC) Project (Project). The FEIS analyzes the potential environmental impacts of the Project as described in the COP (the proposed action) and alternatives to the proposed action and will inform BOEM's decision whether to approve, approve with modifications, or disapprove the COP.

ADDRESSES: The FEIS can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/south-fork.*

FOR FURTHER INFORMATION CONTACT: For information on the FEIS or BOEM's policies associated with this notice of availability (NOA), please contact: Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1722 or *michelle.morin@boem.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Action: South Fork Wind seeks approval to construct, operate, maintain, and eventually decommission the Project—a wind energy facility on the Outer Continental Shelf (OCS) offshore Rhode Island and an associated export cable. The Project would be developed within the range of design parameters outlined in the South Fork Wind COP, subject to applicable mitigation measures. The SFWF as proposed in the COP would include up to 15 wind turbine generators with a nameplate capacity of 6 to 12 megawatts per turbine, submarine cables between the wind turbine generators (inter-array cables), and an offshore substation. The SFWF would be located entirely on the OCS in the area covered by Renewable Energy Lease OCS–A 0517 (Lease Area), approximately 19 miles southeast of Block Island, RI, and 35 miles east of Montauk Point, NY. The SFEC is an alternating current electric cable that would connect the SFWF to the existing mainland electric grid in East Hampton, NY. The Project also would include an operations and maintenance facility located onshore at either Montauk in East Hampton, NY, or Quonset Point in North Kingstown, RI, and a facility to connect the SFEC with the Long Island Power Authority electric transmission and distribution system in the town of East Hampton, NY.

Alternatives: BOEM considered 22 alternatives when preparing the draft environmental impact statement (DEIS) and carried forward four alternatives for further analysis in the DEIS and FEIS. These four alternatives include three action alternatives and the no action alternative. Eighteen alternatives were rejected because they did not meet the purpose and need for the proposed action or did not meet screening criteria. The screening criteria included consistency with law and regulations; operational, technical, and economic feasibility; environmental impact; and geographical considerations.

Availability of the FEIS: The FEIS, South Fork Wind COP, and associated information are available on BOEM's website at: *https://www.boem.gov/South-Fork/.* BOEM has distributed digital copies of the FEIS to all parties listed in the FEIS appendix B, which also includes the location of all libraries receiving a copy. If you require a CD or paper copy, BOEM will provide one upon request, as long as copies are available. You may request a CD or paper copy of the FEIS by calling (703) 787–1662.

Cooperating Agencies: The following 10 agencies and governmental entities participated as cooperating agencies in the preparation of the FEIS: Bureau of Safety and Environmental Enforcement; U.S. Environmental Protection Agency; National Marine Fisheries Service; U.S. Army Corps of Engineers; U.S. Coast Guard; the Massachusetts Office of Coastal Zone Management; Rhode Island Department of Environmental Management; Rhode Island Coastal Resource Management Council; and Town of East Hampton, and Trustees of the Freeholders and Commonality of the Town of East Hampton.

Authority: This NOA was prepared under 42 U.S.C. 4231 *et seq.* (NEPA, as amended) and 40 CFR 1506.6.

William Yancey Brown,

Chief Environmental Officer, Bureau of Ocean Energy Management.

[FR Doc. 2021–17829 Filed 8–19–21; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR83550000, 212R5065C6, RX.59389832.1009676]

Quarterly Status Report of Water Service, Repayment, and Other Water-Related Contract Actions

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of contract actions.

SUMMARY: Notice is hereby given of contractual actions that have been proposed to the Bureau of Reclamation (Reclamation) and are new, discontinued, or completed since the last publication of this notice. This notice is one of a variety of means used to inform the public about proposed contractual actions for capital recovery and management of project resources and facilities consistent with section 9(f) of the Reclamation Project Act of 1939. Additional announcements of individual contract actions may be published in the **Federal Register** and in newspapers of general circulation in the areas determined by Reclamation to be affected by the proposed action.

ADDRESSES: The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the address and telephone number given for each region in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Michelle Kelly, Reclamation Law Administration Division, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225–0007; *mkelly@usbr.gov;* telephone 303–445–2888.

SUPPLEMENTARY INFORMATION: Consistent with section 9(f) of the Reclamation Project Act of 1939, and the rules and regulations published in 52 FR 11954, April 13, 1987 (43 CFR 426.22), Reclamation will publish notice of proposed or amendatory contract actions for any contract for the delivery of project water for authorized uses in newspapers of general circulation in the affected area at least 60 days prior to contract execution. Announcements may be in the form of news releases, legal notices, official letters, memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation procedures do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. Either of the contracting parties may invite the public to observe contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act. Pursuant to the ''Final Revised Public Participation Procedures'' for water resource-related contract negotiations, published in 47 FR 7763, February 22, 1982, a tabulation is provided of all proposed contractual actions in each of the five Reclamation regions. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary of the Interior, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the regional directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved.

Public participation in and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

1. Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

2. Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of Reclamation.

3. Written correspondence regarding proposed contracts may be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act, as amended.

4. Written comments on a proposed contract or contract action must be submitted to the appropriate regional officials at the locations and within the time limits set forth in the advance public notices.

5. All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority.

6. Copies of specific proposed contracts may be obtained from the appropriate regional director or his or her designated public contact as they become available for review and comment.

7. In the event modifications are made in the form of a proposed contract, the appropriate regional director shall determine whether republication of the notice and/or extension of the comment period is necessary.

Factors considered in making such a determination shall include, but are not limited to, (i) the significance of the modification, and (ii) the degree of public interest which has been expressed over the course of the negotiations. At a minimum, the regional director will furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Definitions of Abbreviations Used in the Reports

ARRA American Recovery and Reinvestment Act of 2009
BCP Boulder Canyon Project
Reclamation Bureau of Reclamation
CAP Central Arizona Project
CUP Central Utah Project
CVP Central Valley Project
CRSP Colorado River Storage Project
XM Extraordinary maintenance
EXM Emergency Extraordinary Maintenance
FR Federal Register
IDD Irrigation and Drainage District
ID Irrigation District
M&I Municipal and Industrial
O&M Operation and Maintenance
OM&R Operation, Maintenance, and Replacement
P–SMBP Pick-Sloan Missouri Basin Program
RRA Reclamation Reform Act of 1982
SOD Safety of Dams
SRPA Small Reclamation Projects Act of 1956
USACE U.S. Army Corps of Engineers
WD Water District

MISSOURI BASIN—INTERIOR REGION 5: Bureau of Reclamation, P.O. Box 36900, Federal Building, 2021 4th Avenue North, Billings, Montana 59101, telephone 406–247–7752.

Completed contract actions:

26. XTO Energy, Inc.; Ruedi Reservoir, Fryingpan-Arkansas Project; Colorado: Consideration to amend Ruedi Round I contract No. 2–07–70–W055 for additional places of use, including the Piceance Creek Basin. Contract executed March 25, 2021.

35. Central Oklahoma Master Conservancy District, Norman Project, Oklahoma: Consideration for renewal of water service contract No. 169E640075. Contract executed June 23, 2021.

37. Christine and Andrew Armstrong, Shoshone Project, Wyoming: Consideration for renewal of water service contract No. 19E6A0227B. Contract executed June 23, 2021.

UPPER COLORADO BASIN—INTERIOR REGION 7: Bureau of Reclamation, 125 South State Street, Room 8100, Salt Lake City, Utah 84138–1102, telephone 801–524–3864.

New contract actions:

28. Moon Lake Water Users Association, Moon Lake Project, Utah: The Association is interested in installing a small hydro-electric generator at Moon Lake Reservoir. This will require contract actions with the United States.

29. Uintah Water Conservancy District; Jensen Unit, CUP; Utah: The District has requested to initiate the process to construct the Burns Bench Pumping Plant, as part of the CUP—Jensen Unit.

LOWER COLORADO BASIN—INTERIOR REGION 8: Bureau of Reclamation, P.O. Box 61470 (Nevada Highway and Park Street), Boulder City, Nevada 89006–1470, telephone 702–293–8192.

New contract action:

19. Central Arizona Water Conservation District and Seventeen Entities, CAP, Arizona: Execute Non-Indian Agricultural (NIA) subcontracts consistent with a January16, 2014, recommendation from the Arizona Department of Water Resources.

Completed contract actions:

13. Brooke Water LLC and EPCOR Water Arizona Inc., BCP, Arizona: Enter into an assignment of Brooke's Colorado River water delivery contract to EPCOR, and a new contract with EPCOR that will supersede and replace its existing Colorado River water delivery contract. Contract executed June 16, 2021.

14. San Carlos Apache Tribe and the Town of Gilbert, CAP, Arizona: Execute a CAP water lease for the San Carlos Apache Tribe to lease 11,446 acre-feet of its CAP water to the Town of Gilbert during calendar year 2021. Lease executed May 18, 2021.

15. San Carlos Apache Tribe and Pascua Yaqui Tribe, CAP, Arizona: Execute a CAP water lease for the San Carlos Apache Tribe to lease 1,720 acre-feet of its CAP water to Pascua Yaqui Tribe during calendar year 2021. Lease executed May 18, 2021.

16. San Carlos Apache Tribe and Freeport Minerals Corporation, CAP, Arizona: Execute a CAP water lease for the San Carlos Apache Tribe to lease 11,500 acre-feet of its CAP water to Freeport Minerals Corporation during calendar year 2021. Lease executed May 19, 2021.

COLUMBIA—PACIFIC NORTHWEST—INTERIOR REGION 9: Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, Idaho 83706–1234, telephone 208–378–5344.

New contract actions:

20. Idaho Board of Water Resources, Boise Project, Idaho: Reclamation intends to negotiate an agreement with the Idaho Board of Water Resources to cost share construction of the raise of Anderson Ranch Dam, under the Water Infrastructure Improvements for the Nation Act (Pub. L. 114–332, Sec. 4007).

CALIFORNIA—GREAT BASIN—INTERIOR REGION 10: Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825–1898, telephone 916–978–5250.

Modified contract actions:

15. City of Santa Barbara, Cachuma Project, California: Execution of a long-term Warren Act contract with the City for conveyance of non-project water in Cachuma Project facilities.

25. California Department of Fish and Game, CVP, California: To extend the term of and amend the existing water service contract for the Department's San Joaquin Fish Hatchery to allow an increase from 35 to 55 cubic feet per second of continuous flow to pass through the Hatchery prior to it returning to the San Joaquin River.

36. State of California, Department of Water Resources, CVP, California: Negotiation of multi-year, long-term (through December 31, 2035, consistent with the approval by State of California—State Water Resources Control Board of the change in place of use) wheeling agreements with the State of California, Department of Water Resources providing for the conveyance and delivery of CVP water through the State of California's water project facilities to Byron-Bethany ID (Musco Family Olive Company), Del Puerto WD (Oak Flat WD), and the Department of Veteran Affairs, San Joaquin Valley National Veterans Cemetery.

Discontinued contract action:

12. Placer County Water Agency, CVP, California: Proposed exchange agreement under section 14 of the 1939 Act to exchange up to 71,000 acre-feet annually of the Agency's American River Middle Fork Project water for use by Reclamation, for a like amount of CVP water from the Sacramento River for use by the Agency.

Completed contract action:

32. State of Nevada, Newlands Project, Nevada: Title transfer of lands and features of Carson Lake and Pasture. Title transfer completed March 31, 2021.

Christopher Beardsley,

Director, Policy and Programs.

[FR Doc. 2021–17839 Filed 8–19–21; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–668–669 and 731–TA–1565–1566 (Preliminary)]

Urea Ammonium Nitrate Solutions From Russia and Trinidad and Tobago

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 urea ammonium nitrate solutions from Russia and Trinidad and Tobago, provided for in subheading 3102.80.00 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 governments of Russia and Trinidad and Tobago.[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.

Background

On June 30, 2021, CF Industries Nitrogen, LLC and its subsidiaries, Terra Nitrogen, Limited Partnership and Terra International (Oklahoma) LLC, all of Deerfield, Illinois, 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 imports of urea ammonium nitrate solutions from Russia and Trinidad and Tobago and LTFV imports of urea ammonium nitrate solutions from Russia and Trinidad and Tobago. Accordingly, effective June 30, 2021, the Commission instituted countervailing duty

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 86 FR 40008 and 86 FR 40004, July 26, 2021.

investigation Nos. 701–TA–668–669 and antidumping duty investigation Nos. 731–TA–1565–1566 (Preliminary).

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** on July 8, 2021 (86 FR 36158). 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 July 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 August 16, 2021. The views of the Commission are contained in USITC Publication 5226 (August 2021), entitled *Urea Ammonium Nitrate Solutions from Russia and Trinidad and Tobago: Investigation Nos. 701–TA–668–669 and 731–TA–1565–1566 (Preliminary).*

By order of the Commission.

Issued: August 16, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–17833 Filed 8–19–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–654–655 and 731–TA–1530–1532 (Final)]

Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe From Korea, Russia, and Ukraine

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 an industry in the United States is materially injured by reason of imports of seamless carbon and alloy steel standard, line, and pressure pipe (''SSLP pipe'') from Korea, Russia, and Ukraine, provided for in subheadings 7304.19.10, 7304.19.50, 7304.31.60, 7304.39.00, 7304.51.50, 7304.59.60, and 7304.59.80 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the governments of Korea and Russia.[2]

Background

The Commission instituted the antidumping and countervailing duty investigations effective July 8, 2020, following receipt of petitions filed with the Commission and Commerce by Vallourec Star, LP, Houston, Texas. The Commission established a general schedule for the conduct of the final phase of its investigations on SSLP pipe from the Czech Republic (''Czechia''), Korea, Russia, and Ukraine following notification of preliminary determinations by Commerce that imports of SSLP pipe from Korea and Russia were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and imports of SSLP pipe from Czechia were sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing 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** on December 31, 2020 (85 FR 86946). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its hearing through written testimony and video conference on March 4, 2021. All persons who requested the opportunity were permitted to participate.

The investigation schedules became staggered when Commerce did not postpone its preliminary determination in the antidumping duty investigation with respect to Czechia (85 FR 83059, December 21, 2020). On April 19, 2021, the Commission issued a final affirmative determination in its antidumping duty investigation of SSLP pipe from Czechia (86 FR 21763). Following notification of final determinations by Commerce that imports of SSLP pipe from Korea, Russia, and Ukraine were being sold at LTFV within the meaning of section 735(a) of the Act (19 U.S.C. 1673d(a)), and subsidized by the governments of Korea and Russia within the meaning of section 705(a) of the Act (19 U.S.C. 1671d(a)), notice of the supplemental scheduling of the final phase of the Commission's antidumping and countervailing duty investigations 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 July 13, 2021 (86 FR 36772).

The Commission made these determinations pursuant to §§ 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on August 16, 2021. The views of the Commission are contained in USITC Publication 5222 (August 2021), entitled *Seamless Carbon and Alloy Steel Standard, Line, And Pressure Pipe from Korea, Russia, and Ukraine: Investigation Nos. 701–TA–654–655 and 731–TA–1530–1532 (Final).*

By order of the Commission.

Issued: August 16, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–17845 Filed 8–19–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1178]

Certain Laparoscopic Surgical Staplers, Reload Cartridges, and Components Thereof; Commission Determination To Review in Part a Final Initial Determination Finding a Violation of Section 337; Schedule for Filing Written Submissions on the Issues Under Review and on Remedy, 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 June 8, 2021, finding a violation of section 337 in the above-referenced investigation as to two of the four asserted patents. The Commission requests briefing from the parties on certain issues under review, as indicated in this notice.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5453. Copies of non-confidential documents filed in connection with this investigation may be viewed on the

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 86 FR 35263–35265, 35267–35276, July 2, 2021.

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: The Commission instituted this investigation on July 5, 2019, based on a complaint filed by Ethicon LLC of Guaynabo, PR; Ethicon Endo-surgery, Inc. of Cincinnati, OH; and Ethicon US, LLC of Cincinnati, OH (collectively, ''Ethicon''). 84 FR 32220 (July 5, 2019); *see also* 84 FR 65174 (Nov. 26, 2019) (amending the caption). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based on the importation into the United States, the sale for importation, and the sale within the United States after importation of certain laparoscopic surgical staplers, reload cartridges, and components thereof by reason of infringement of one or more claims of U.S. Patent Nos. 9,844,379 (''the '379 patent'') ; 9,844,369 (''the '369 patent''); 7,490,749 (''the '749 patent''); 8,479,969 (''the '969 patent''); and 9,113,874 (''the '874 patent''). 84 FR at 32220. The Commission's notice of investigation named the following as respondents: Intuitive Surgical Inc., of Sunnyvale, CA; Intuitive Surgical Operations, Inc., of Sunnyvale, CA; Intuitive Surgical Holdings, LLC, of Sunnyvale, CA; and Intuitive Surgical S. De R.L. De C.V. of Mexicali, Mexico (collectively, ''Intuitive''). *Id.* The Office of Unfair Import Investigations is not participating in this investigation. *Id.*

On October 23, 2020, the ALJ granted Ethicon's motion for leave to amend the complaint, case caption, and Notice of Investigation to reinstate the original plain English statement of the category of accused products, as well as the original case caption, and to reincorporate Intuitive's laparoscopic surgical staplers and components thereof as articles to be excluded. Order No. 14, *unreviewed by* Comm'n Notice (Nov. 21, 2019). As initially instituted, the investigation covered reload cartridges for those staplers, but not the actual staplers themselves. *See id.*

On October 29, 2019, the ALJ conducted a *Markman* hearing. Thereafter, on January 7, 2020, the ALJ issued Order No. 15, which construed various terms in the asserted patents.

On March 5, 2020, the ALJ granted Ethicon's motion to terminate claim 1 of the '379 patent and all claims of the '749 patent from the investigation. *See* Order No. 21, *unreviewed by* Comm'n Notice (Mar. 25, 2020).

On April 21, 2020, Ethicon moved for leave to file a second amended complaint to include the Certificate of Correction for the '379 patent. The ALJ granted Ethicon's motion on May 6, 2020, and Ethicon filed its second amended complaint on May 7, 2020. *See* Order No. 36; Doc. ID 709878.

On June 8, 2021, the ALJ issued the subject ID on violation, which found a violation of section 337 based on infringement of the '369 and '379 patents by Intuitive. The ID found no violation based on the '969 and 874 patents. Also, on June 8, 2021, the ALJ issued his recommended determination on remedy and bonding. The ALJ recommended, upon a finding of violation, that the Commission issue a limited exclusion order, issue a cease and desist order, and impose a bond in the amount of zero percent of the entered value of any covered products imported during the period of Presidential review.

On June 21, 2021, Ethicon and Intuitive submitted petitions seeking review of the subject ID. On June 29, 2021, Ethicon and Intuitive submitted responses to the others' petitions.

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 (1) the ID's findings on claim construction, infringement, anticipation, obviousness, and enforceability for the '969 patent; and (2) the ID's findings on claim construction, infringement, and obviousness for the '369 patent. The Commission has determined not to review the remainder of the ID.

In connection with its review, Commission requests responses to the following questions. The parties are requested to brief their positions with reference to the applicable law and the existing evidentiary record.

1. Claim 24 of the '969 patent includes the terms ''elongated shaft assembly'' and ''transmission assembly.'' Concerning these terms, identify where in the record, if anywhere:

a. The parties proposed constructions for these terms;

b. The parties argued in support of any constructions proposed; and

c. The ALJ construed these terms.

2. Concerning the terms ''elongated shaft assembly'' and ''transmission assembly,'' indicate whether these terms should be construed according to their plain and ordinary meaning. If these terms should be construed according to their plain and ordinary meaning, what is the plain and ordinary meaning of each term? If these terms should be construed otherwise, identify the correct mode of construction and the corresponding construction for each term. Identify with specificity the evidence of record that supports your contentions with particular emphasis on evidence intrinsic to the '969 patent.

a. Explain whether the SureForm products meet these limitations under the parties' proposed constructions.

3. Does the evidence of record support the conclusion that persons of ordinary skill in the art with respect to the '969 patent were responsible for the decision to create a joint venture between PMI and Intuitive for the purpose of modifying the PMI i60 stapler to work with the da Vinci Si surgical system? Provide any citations to the record that support your contention.

4. Does the record indicate whether the Si EndoWrist 45 stapler is the subject of one or more patents? Identify any such patents.

5. Claim 22 of the '369 patent includes the term ''elongate channel.'' Concerning that term, identify where in the record, if anywhere:

a. The parties proposed constructions for that term;

b. The parties argued in support of any constructions proposed; and

c. The ALJ construed that term.

6. Concerning the term ''elongate channel,'' indicate whether these terms should be construed according to its plain and ordinary meaning? If this term should be construed according to its plain and ordinary meaning, what is the plain and ordinary meaning of the term? If the term should be construed otherwise, identify the correct mode of construction and the corresponding construction. Identify with specificity the evidence of record that supports your contentions with particular emphasis on evidence intrinsic to the '369 patent.

a. Explain whether the SureForm products meet this limitation under the parties' proposed constructions.

7. Claim 22 of the '369 patent includes the limitation: ''means for guiding the at least one lower foot on the firing element out of the proximal channel opening into the internal passage upon initial application of a firing motion to the firing element.'' If the Commission determines that the corresponding structure for that limitation is limited to flat, as opposed to curved, chamfers and slopes, would

the accused products practice this limitation?

8. Concerning claims 22 and 23 of the '369 patent, Intuitive states in its petition for review that its proposed obviousness combination ''includes each limitation of the asserted claims under Ethicon's theory of infringement.'' Identify what aspect of Intuitive's obviousness theory is dependent on Ethicon's theory of infringement and explain how it is dependent.

9. If the Commission finds that Intuitive does not infringe claims 22 and 23 of the '369 patent, explain whether Intuitive's obviousness theories necessarily fail by virtue of their dependence on Ethicon's infringement theory.

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 statute authorizes issuance of, *inter alia,* (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States; and/or (2) cease and desist orders that could result in the respondents 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 the investigation are requested to file written submissions on the issues identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

In its initial submission, Complainant is also requested to identify the remedy sought and to submit proposed remedial orders for the Commission's consideration. Complainant is further requested to state the dates that the Asserted Patents expire, to provide the HTSUS subheadings under which the accused products are imported, and to supply the identification information for all known importers of the products at issue in this investigation. The initial written submissions and proposed remedial orders must be filed no later than close of business on August 23, 2021. Reply submissions must be filed no later than the close of business on August 30, 2021. Opening submissions are limited to 100 pages. Reply submissions are limited to 75 pages. No further submissions on 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–1167) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary, (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly 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, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on August 16, 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: August 16, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–17843 Filed 8–19–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Investigation Nos. 701–TA–468 and 731–TA–1166–1167 (Second Review); Certain Magnesia Carbon Bricks From China and Mexico

Determination

On the basis of the record [1] developed in the subject five-year reviews, the

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing duty order on certain magnesia carbon bricks from China and the antidumping duty orders on certain magnesia carbon bricks from China and Mexico would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on January 4, 2021 (86 FR 126) and determined on April 9, 2021 that it would conduct expedited reviews (86 FR 36770, July 13, 2021).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on August 17, 2021. The views of the Commission are contained in USITC Publication 5223 (August 2021), entitled *Certain Magnesia Carbon Bricks from China and Mexico: Investigation Nos. 701–TA–468 and 731–TA–1166–1167 (Second Review).*

By order of the Commission.

Issued: August 17, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–17886 Filed 8–19–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1567–1569 (Preliminary)]

Acrylonitrile-Butadiene Rubber From France, Korea, and Mexico

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 acrylonitrile-butadiene rubber from France, Korea, and Mexico, provided for in subheading 4002.51.00 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'').[2]

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 86 FR 40192 (July 27, 2021).

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 section 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 § 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under § 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 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.

Background

On June 30, 2021, Zeon Chemicals L.P. and Zeon GP, LLC (collectively ''Zeon''), Louisville, Kentucky, filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured and threatened by further material injury by reason of LTFV imports of acrylonitrile-butadiene rubber from France, Korea, and Mexico. Accordingly, effective June 30, 2021, the Commission instituted antidumping duty investigations Nos. 731–TA–1567–1569 (Preliminary).

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 July 7, 2021 (86 FR 35825). 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. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to § 733(a) of the Act (19 U.S.C. 1673b(a)). It completed and filed its determinations in these investigations on August 16, 2021. The views of the Commission are contained in USITC Publication 5227 (August 2021), entitled *Acrylonitrile-Butadiene Rubber (NBR) from France, Korea, and Mexico: Investigation Nos. 731–TA–1567–1569 (Preliminary*).

By order of the Commission.

Issued: August 16, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–17844 Filed 8–19–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP (BJA) Docket No. 1792]

Meeting of the Public Safety Officer Medal of Valor Review Board

AGENCY: Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA), Justice.

ACTION: Notice of meeting cancellation and rescheduling.

SUMMARY: This is an announcement cancelling the meeting of the Public Safety Officer Medal of Valor Review Board that was scheduled for September 20, 2021, and rescheduling it for October 19, 2021. The primarily intended purpose of this meeting is to consider nominations for the 2020–2021 Medal of Valor, and to make a limited number of recommendations for submission to the U.S. Attorney General. Additional issues of importance to the Board may also be discussed. The virtual meeting/conference call date and time is listed below.

DATES: October 19, 2021, 12:30 p.m. to 3:00 p.m. EDT.

ADDRESSES: This meeting will be held virtually using web conferencing technology. The public may hear the proceedings of this virtual meeting/conference call by registering with Gregory Joy at last seven (7) days in advance with Gregory Joy (contact information below).

FOR FURTHER INFORMATION CONTACT: Gregory Joy, Policy Advisor, Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street NW, Washington, DC 20531, by telephone at (202) 514–1369, toll free (866) 859–2687, or by email at *Gregory.joy@usdoj.gov.*

SUPPLEMENTARY INFORMATION: The Public Safety Officer Medal of Valor

Review Board carries out those advisory functions specified in 42 U.S.C. 15202. Pursuant to 42 U.S.C. 15201, the President of the United States is authorized to award the Public Safety Officer Medal of Valor, the highest national award for valor by a public safety officer.

This virtual meeting/conference call is open to the public to participate remotely. For security purposes, members of the public who wish to participate must register at least seven (7) days in advance of the meeting/conference call by contacting Mr. Joy.

Access to the virtual meeting/conference call will not be allowed without prior registration. Please submit any comments or written statements for consideration by the Review Board in writing at least seven (7) days in advance of the meeting date.

Gregory Joy,

Policy Advisor/Designated Federal Officer, Bureau of Justice Assistance.

[FR Doc. 2021–17902 Filed 8–19–21; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2020–0010]

Maritime Advisory Committee on Occupational Safety and Health (MACOSH): Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of MACOSH meeting.

SUMMARY: The Maritime Advisory Committee on Occupational Safety and Health (MACOSH) will meet September 14, 2021, by teleconference and WebEx.

DATES: MACOSH will meet from 1:00 p.m. to 5:00 p.m., ET, Tuesday, September 14, 2021.

ADDRESSES:

Submission of comments and requests to speak: Submit comments and requests to speak at the MACOSH meeting by September 7, 2021, identified by the docket number for this **Federal Register** notice (Docket No. OSHA–2020–0010), using the following method:

Electronically: Comments and request to speak, including attachments, must be submitted electronically at: *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting nominations.

Requests for special accommodations: Submit requests for special accommodations for this MACOSH meeting by September 7, 2021, to Ms. Carla Marcellus, Occupational Safety and Health Administration, Directorate of Standards and Guidance, U.S. Department of Labor; telephone (202) 693–1865; email *marcellus.carla@dol.gov.*

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA–2020–0010). OSHA will place comments and requests to speak, including personal information, in the public docket, which will be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone (202) 693–1999; email *meilinger.francis2@dol.gov.*

For general information about MACOSH: Ms. Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA, U.S. Department of Labor; telephone (202) 693–2066; email: *wangdahl.amy@dol.gov.*

Telecommunication requirements: For additional information about the telecommunication requirements for the meeting, please contact Ms. Carla Marcellus, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–1865; email *marcellus.carla@dol.gov.*

*For copies of this **Federal Register** Notice:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available at OSHA's web page at *www.osha.gov.*

SUPPLEMENTARY INFORMATION:

Attendance at this MACOSH meeting will be by teleconference and WebEx only. The teleconference dial-in number and passcode are as follows: Dial-in number: 1–888–566–5976; Passcode: 6446452 and the WebEx link is: *https://usdolee.webex.com/usdolee/onstage/g.php?MTID=e002aaf4cbff0d64e9826dc97cb3d9aeb.* The workgroups will discuss power mechanic safety, on-dock rails, line handling, the safe use of small boats in the workplace, hydrogen sulfide, injury and illness reporting, heat stress, and worker participation in helping to reduce workplace injuries.

Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655(b)(1) and 656(d), 5 U.S.C. App. 2, Secretary of Labor's Order No. 8–2020 (85 FR 58383), and 29 CFR part 1912.

Signed at Washington, DC, on August 11, 2021.

James S. Frederick,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–17872 Filed 8–19–21; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Notice To Announce Request for Comments on the National Endowment for the Arts' Draft 2022–2026 Strategic Plan

AGENCY: National Endowment for the Arts.

ACTION: Request for comments.

SUMMARY: The National Endowment for the Arts (NEA) is in the process of developing a new strategic plan for fiscal years 2022 through 2026. The NEA Office of Research & Analysis is soliciting public comments on the agency's draft 2022–2026 Strategic Plan. We encourage you to read the draft Strategic Plan (linked below) and provide any comments you may have via email (see **ADDRESSES**). To view the draft strategic plan, please visit the NEA website at: *https://www.arts.gov/strategic-plan-input.* Through this Request for Comments, the NEA invites ideas and insights from the general public, including arts organizations, artists, arts educators, state and local arts agencies, other arts funders and policy-makers, researchers, and individuals and groups outside the arts sector.

DATES: Written comments must be submitted to the office listed in the address section below on or before the close of business on Friday, September 3, 2021. Comments received after that

date will be considered to the extent practicable.

ADDRESSES: Send comments to Sunil Iyengar, National Endowment for the Arts, via email at *NEAstrategicplanninggroup@arts.gov.*

SUPPLEMENTARY INFORMATION:

A. About the National Endowment for the Arts

Established by Congress in 1965, the National Endowment for the Arts is an independent federal agency, providing funding and support to give Americans the opportunity to participate in the arts, exercise their imaginations, and develop their creative capacities. Currently, the NEA supports arts organizations and artists in every Congressional district in the country.

B. Request for Comments

As a federal agency, the National Endowment for the Arts is required to establish a new strategic plan every four years. The Strategic Plan sets key priorities for the agency and presents management-focused objectives and strategies. The current draft plan is intended to align the NEA's strategic aims more closely with the needs of today, while elevating the vital and enduring role of the Agency within government and society at large. The NEA's draft Strategic Plan, covering fiscal years 2022–2026 can be found online, here: *https://www.arts.gov/strategic-plan-input.*

Through this Request for Comments, the NEA is seeking public input and comments from a broad array of stakeholders (see **SUMMARY**). A call for comments has also been posted to the agency's website: *https://www.arts.gov/strategic-plan-input.*

Authority: 5 U.S.C. 306.

Dated: August 17, 2021.

Meghan Jugder,

Support Services Specialist, Office of Administrative Services & Contracts, National Endowment for the Arts.

[FR Doc. 2021–17883 Filed 8–19–21; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit modification request.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by September 20, 2021. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Polly Penhale, ACA Permit Officer, at the above address, 703–292–7420, or *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Description of Permit Modification Requested: The Foundation issued a permit (ACA 2019–001) to Ron Naveen, Oceanites Inc., on August 7, 2018. The issued permit allows the permit holder and agents to engage in take and harmful interference, as well as to enter Antarctic Specially Protected Areas (ASPAs), to continue data collections activities conducted to support the Antarctic Site Inventory. Visitor site surveys may include censusing penguin and seabird colonies throughout the Antarctic Peninsula. There is the potential for slight disturbance of the birds during surveying and censusing. This permit addresses the potential for infrequent, minimal take or harmful interference of the several penguin and other seabird species. While conducting visitor site surveys and censuses, the permit holder and agents may enter a number of ASPAs in the Antarctic Peninsula region.

A recent modification to this permit, dated November 20, 2019, permitted the applicant to collect samples from adult gentoo penguins (*Pygoselis papua*) for genetic analysis in order to study range expansion, colonization of new areas, and gene flow.

Now the applicant proposes a modification to his permit to include use of unoccupied aerial systems (UAS) to enable more efficient monitoring of penguin breeding colonies and to improve penguin censusing capabilities in the Antarctic Peninsula region. The applicant has included a detailed list of mitigation measures to limit disturbance to wild populations throughout operations. The applicant also seeks to include opportunistic guano sampling under the existing permit to assist in analysis of penguin diet. Guano samples will be collected during planned operations within penguin colonies and the disturbance to wildlife is expected to be minimal.

Location: Western Antarctic Peninsula.

Dates: September 1, 2018–August 31, 2023.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2021–17825 Filed 8–19–21; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by September 20, 2021. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: Polly Penhale, ACA Permit Officer, at the above address, 703–292–7420, or *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541, 45 CFR 671), as amended by the Antarctic Science, Tourism and Conservation Act

of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2022–006

1. *Applicant:* Ron Naveen, Oceanites, PO Box 15259, Chevy Case, MD 20825.

Activity for Which Permit Is Requested: Waste management. The applicant seeks a waste management permit to expand upon existing research activities conducted in the West Antarctica Peninsula. The applicant seeks to use unoccupied aerial systems (UAS) to enable more efficient monitoring of penguin breeding sites and to increase penguin censusing capabilities. The permit will cover any unintentional or accidental loss of remotely piloted aircrafts through planned research operations. The applicant has provided a detailed mitigation plan to minimize risk of equipment loss, including use of observers and experienced pilots.

Location: West Antarctic Peninsula.

Dates of Permitted Activities: November 1, 2021–August 31, 2023.

Erika N. Davis,

Program Specialist, Office of Polar Programs.

[FR Doc. 2021–17823 Filed 8–19–21; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0117]

Acceptability of ASME Code Section III, Division 5, High Temperature Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; draft NUREG; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft regulatory guide (DG), DG–1380 (proposed Revision 2 to Regulatory Guide [RG] 1.87), ''Acceptability of ASME Code Section III, Division 5, 'High Temperature Reactors''' and accompanying draft NUREG–2245, ''Technical Review of the 2017 Edition of ASME Section III, Division 5, 'High Temperature Reactors,''' that documents the NRC staff's review of the 2017 Edition of ASME Section III, Division 5, certain portions of the 2019 Edition, and associated Code Cases N–861 and N–862. This DG describes an approach that is acceptable to the staff of the NRC to meet regulatory requirements for mechanical/structural integrity of components that operate in elevated temperature environments and that are subject to time-dependent material properties and failure modes. It endorses, with conditions, the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (ASME Code) Section III, ''Rules for Construction of Nuclear Facility Components,'' Division 5, ''High Temperature Reactors.'' The draft NUREG provides the technical basis for DG–1380.

DATES: Submit comments by October 19, 2021. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

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–2021–0117. 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: Jeffrey Poehler, Office of Nuclear Regulatory Research, telephone: 301–415–8353, email: *Jeffrey.Poehler@nrc.gov,* Robert Roche-Rivera, Office of Nuclear Regulatory Research, telephone: 301–415–8113, email: *Robert.Roche-Rivera@nrc.gov,* and Jordan Hoellman, Office of Nuclear Reactor Regulation, telephone: 301–415–5481, email: *Jordan.Hoellman2@nrc.gov.* All are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0117 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–2021–0117.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *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. (ET), 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–2021–0117 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 submissions. 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. Additional Information

The NRC is issuing for public comment a draft guide in the NRC's ''Regulatory Guide'' series. This series was developed to describe methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

This proposed Revision 2 to RG 1.87, entitled ''Acceptability of ASME Code Section III, Division 5, 'High Temperature Reactors,''' is temporarily identified by its task number, DG–1380 (ADAMS Accession No. ML21091A276). The staff is also issuing for public comment a draft regulatory analysis (ADAMS Accession No. ML21091A277), and draft NUREG–2245, ''Technical Review of the 2017 Edition of ASME Section III, Division 5, 'High Temperature Reactors,''' (ADAMS Accession No. ML21223A097) that documents the NRC staff's review of the 2017 Edition of ASME Section III, Division 5, certain portions of the 2019 Edition, and associated Code Cases N–861 and N–862. Code Cases N–872 and N–898 (''the Alloy 617 Code Cases''), approved by ASME in 2020, are not included in this review and are being considered for endorsement in a parallel effort.

The NRC published Revision 1 of RG 1.87, ''Guidance for Construction of Class 1 Components in Elevated-Temperature Reactors,'' in June 1975 to provide licensees and applicants with agency-approved guidance for complying with paragraph 50.55a of title 10 of the *Code of Federal Regulations* (10 CFR) ''Codes and standards,'' and General Design Criterion 1, ''Quality Standards and Records.'' The guide described interim licensing guidelines to aid applicants in implementing these requirements with respect to ASME Class 1 components operating at elevated temperatures. Specifically, the guide approved, with conditions, the initial versions of five Code Cases namely, Code Cases 1592–0, 1593–0, 1594–0, 1595–0, and 1596–0. These five Code Cases are the precursors to the other iterations of ASME's high temperature construction rules: Code Cases N–47 through N–51; ASME Code, Section III, Subsection NH; and currently ASME Code, Section III, Division 5. The current version of RG 1.87 (Revision 1) does not reflect the changes and updates with respect to modern design, fabrication, inspection, testing, and overpressure provisions (among others) addressed by the aforementioned Code iterations, research, and operating experience.

This revision (Revision 2) updates the guidance to endorse, with conditions, the 2017 Edition of ASME Code Section III, Division 5, as a method acceptable to the staff for the materials, mechanical/structural design, construction, testing, and quality assurance of mechanical systems and components and their supports of high-temperature reactors. This revision of the guide also addresses the acceptability of the Code Cases N–861 and N–862, which are related to Division 5 of the ASME Code, Section III. Draft NUREG–2245 provides the technical basis for NRC staff positions stated in the DG, including proposed exceptions and limitations on the use of Division 5. Additionally, this revision adds an appendix to the RG namely Appendix A, ''High Temperature Reactor Quality Group Classification,'' which provides guidance for the quality group classification of components in non-light water reactor designs.

III. Backfitting, Forward Fitting, and Issue Finality

DG–1380 and NUREG–2245, if finalized, would not constitute backfitting as defined in 10 CFR 50.109, ''Backfitting,'' and as described in NRC Management Directive (MD) 8.4, ''Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests'' (ADAMS Accession No. ML18093B087); constitute forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR part 52, ''Licenses, Certificates, and Approvals for Nuclear Power Plants.'' The guidance would not apply to any current licensees or applicants or existing or requested approvals under 10 CFR part 52, and therefore its issuance cannot be a backfit or forward fit or affect issue finality. Further, as explained in DG–1380, applicants and licensees would not be required to comply with the positions set forth in DG–1380.

Dated: August 17, 2021.

For the Nuclear Regulatory Commission.

Ronaldo V. Jenkins,

Acting Chief, Regulatory Guidance and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2021–17916 Filed 8–19–21; 8:45 am]

BILLING CODE 7590–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–126 and CP2021–130]

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:* August 23, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505

(Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2021–126 and CP2021–130; *Filing Title:* USPS Request to Add Priority Mail Contract 720 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* August 13, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* August 23, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2021–17828 Filed 8–19–21; 8:45 am]

BILLING CODE 7710–FW–P

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92677; File No. SR–MSRB–2021–04]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of a Proposed Rule Change Consisting of Amendments to Rule G–10, on Investor and Municipal Advisory Client Education and Protection, and Rule G–48, on Transactions With Sophisticated Municipal Market Professionals, To Amend Certain Dealer Obligations

August 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 2, 2021 the Municipal Securities Rulemaking Board (''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB filed with the Commission a proposed rule change consisting of amendments to MSRB Rule G–10, on investor and municipal advisory client education and protection, and MSRB Rule G–48, on transactions with sophisticated municipal market professionals (''SMMPs'') (collectively, the ''proposed rule change''). The proposed rule change would clarify the scope of the requirements for brokers, dealers and municipal securities dealers (collectively, ''dealers'') to provide the required notifications under Rule G–10 to those customers who would best be served by the receipt of the information and make accompanying amendments to Rule G–48 to exclude SMMPs from certain requirements under Rule G–10.[3]

If the Commission approves the proposed rule change, the MSRB will announce the effective date of the proposed rule change no later than 10 days following Commission approval. The effective date will be no later than 30 days following Commission approval.

The text of the proposed rule change is available on the MSRB's website at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2021-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

In 2017, the MSRB amended Rule G–10 with the goal of, among other things, modernizing the rule and extend the rule's application to municipal advisors.[4] Prior to that time, the rule only applied to dealers and required dealers to provide a customer with a paper copy of the MSRB's investor brochure after a customer had made a complaint to the dealer.[5] Recognizing this requirement did not afford customers the best use of the information in a timely manner, the 2017 amendments replaced the post-

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Under MSRB Rule D–9, a ''customer'' means ''any person other than a broker, dealer, or municipal securities dealer acting in its capacity as such or an issuer in transactions involving the sale by the issuer of a new issue of its securities.''

[4] *See* Exchange Act Release No. 79801 (January 13, 2017), 82 FR 7898 (January 23, 2017) (File No. SR–MSRB–2016–15). The 2017 amendments created similar obligations for municipal advisors to provide their municipal advisory clients with certain notifications. The text of the amendments addressed the scope of Rule G–10 obligations for municipal advisors by specifically defining ''municipal advisory client'' for purposes of Rule G–10 to include ''either a municipal entity or obligated person for whom the municipal advisor engages in municipal advisory activities, as defined in rule G–42(f)(iv), or a broker, dealer, municipal securities dealer, municipal advisor, or investment adviser (as defined in section 202 of the Investment Advisers Act of 1940) on behalf of whom the municipal advisor undertakes a solicitation of a municipal entity or obligated person, as defined in Rule 15Ba1–1(n), 17 CFR 240.15Ba1–1(n), under the Act.''

[5] *See* Exchange Act Release No. 24764 (July 31, 1987), 52 FR 29459 (August 7, 1987) (File No. SR–MSRB–87–6).

complaint delivery requirement with more timely delivery requirements.

Rule G–10, as designed, serves to educate and protect investors and municipal advisory clients by providing them with information about the MSRB rules designed to protect them and the process for filing a complaint with the appropriate regulatory authority. The rule currently requires dealers and municipal advisors (collectively, ''regulated entities'') to provide certain notifications to customers and municipal advisory clients, respectively, once every calendar year. More specifically, Rule G–10 requires regulated entities to provide, in writing, which may be made electronically, the following information (''required notifications''):

(i) A statement that the regulated entity is registered with the SEC and the MSRB;

(ii) The website address for the MSRB; and

(iii) A statement as to the availability to the customer or municipal advisory client of a brochure that is available on the MSRB's website that describes the protections that may be provided by MSRB rules, and how to file a complaint with an appropriate regulatory authority.[6]

Given there has been a reasonable implementation period to allow the MSRB time to obtain meaningful insight on the operation of the rule, the MSRB conducted a retrospective review of the obligations under Rule G–10. The MSRB identified an opportunity to reduce certain compliance burdens by re-evaluating the potential benefits of the rule to better align the scope of the rule's application. The proposed rule change is specific to the dealer obligations under Rule G–10 and the MSRB is not proposing to modify municipal advisors' obligations under the rule because the obligation municipal advisors have under Rule G–10 is already limited in scope in that a municipal advisor must provide the required notifications promptly after the establishment of a municipal advisory relationship, as defined in MSRB Rule G–42(f)(v), or promptly, after entering into an agreement to undertake a solicitation, as defined in Rule 15Ba1–1(n), 17 CFR 240.15Ba1–1(n), under the Act, and then no less than once each calendar year thereafter during the course of that agreement. The obligation dealers currently have under Rule G–10 is broader in that each dealer must provide the required notifications to all customers, including SMMPs, even if those customers have not effected any transaction in municipal securities and may never effect a transaction in municipal securities.[7] Recognizing that MSRB Rule G–48 underscores the differences between dealer obligations to non-SMMP customers and SMMP customers, the MSRB also assessed whether a modification to Rule G–48 was warranted.

Proposed Amendments to Rules G–10 and G–48: Dealer Obligation To Make Required Notifications

I. Customer Receipt of Required Notifications

The proposed amendment to Rule G–10(a), would require dealers to provide the notifications to those customers for whom a purchase or sale of a municipal security was effected and to each customer who holds a municipal securities position. Narrowing the scope to those customers that engage in municipal securities transactions would reduce the burden of remitting the notifications unnecessarily to all customers, while ensuring that dealers remit the notifications to customers who would most benefit from receiving them. Customers who do not receive the notifications directly pursuant to Rule G–10(a) will still have access to them as section (b) of Rule G–10 would require each dealer to have the required notifications available on its website for the benefit of such customers. As a result, the MSRB does not believe there is a detrimental impact to such customers and believes that not receiving the notifications may avoid confusion for customers who currently receive such notifications even though they have not effected a municipal securities transaction or hold municipal securities.

The proposed rule change would also amend Rule G–48 to modify a dealer's obligation under Rule G–10. Specifically, the proposed amendment to add section (f) to Rule G–48 would allow a dealer to make the notifications available on its website rather than remit the notifications to an SMMP pursuant to Rule G–10(a).[8] The MSRB believes that customers who meet the definition of SMMPs under Rule D–15 are sophisticated in their understanding of the municipal market. In the event that an SMMP is seeking the information found in the required notifications, including the MSRB's website address, dealer registration status and how to file a complaint with the appropriate regulatory agency, a sophisticated customer is likely to know the information, or seek access to it from the dealer's or MSRB's website. The proposed amendment to Rule G–48 balances the burden on dealers to remit the required notifications to SMMPs against the usefulness of SMMPs receiving such notifications when the information is otherwise readily available. This modified obligation dealers have with respect to SMMPs is proposed section (f) of Rule G–48, in keeping with the placement of other modified obligations for transactions with SMMPs under Rule G–48.

II. Exception for Dealers Subject to Carrying Agreements

The proposed amendments to Rule G–10 would apply to all dealers, with two general exceptions: (i) A dealer that does not have customers, or (ii) a dealer that is a party to a carrying agreement in which the carrying dealer has agreed to comply with the requirement to provide notifications under the rule. The proposed amendment to section (c) of Rule G–10 would provide that any dealer that does not have customers, or who is a party to a carrying agreement in which the carrying dealer has agreed to comply with the required notification requirements, would be exempt from the Rule G–10(a) requirements. The MSRB recognizes that customer accounts may be held at other dealers, subject to a carrying agreement, and that the carrying dealers are responsible for providing account statements and trade confirmations. Therefore, the proposed amendment to Rule G–10(c) is meant to acknowledge common business practices and facilitate carrying dealers' compliance with the requirement to provide notifications under the rule, on behalf of other dealers.[9] Additionally,

[6] See MSRB's ''Information for Municipal Securities Investors,'' available at *https://www.msrb.org/~/media/Files/Resources/MSRB-Investor-Brochure.ashx?la=en* and ''Information for Municipal Advisory Clients,'' available at *https://www.msrb.org/~/media/Files/Resources/MSRB-MA-Clients-Brochure.ashx?la=.*

[7] On December 7, 2020, the MSRB issued MSRB Request for Input on Strategic Goals and Priorities, available at *https://www.msrb.org/~/media/Files/Regulatory-Notices/RFCs/2020-19.ashx??n=1,* with a comment period deadline of January 11, 2021. Two commenters recommended changes to certain dealer obligations under Rule G–10. *See* Letter from Mike Nicholas, Chief Executive Officer, Bond Dealers of America (BDA), dated January 11, 2021. *See also* Letter from Leslie Norwood, Managing Director and Associate General Counsel and Bernard Canepa, Vice President and Assistant General Counsel, Securities Industry and Financial Markets Association (SIFMA), dated January 11, 2021.

[8] In order for a customer to be deemed an SMMP, MSRB Rule D–15 requires dealers to determine the nature of the customer, the customer's sophistication level, and also requires a customer affirmation, as specified in the rule.

[9] The proposed rule change promotes regulatory consistency with section (b)(2) of FINRA Rule 2267, on Investor Education and Protection, which

Continued

the proposed amendments would expressly clarify that the dealer would not be subject to the notifications requirement, under Rule G–10(a), in cases where dealers conduct a limited business and are not considered to have customers.

III. Supplementary Material to Rule G–10

The proposed rule change would include supplementary material under Rule G–10 that would provide clarity on the timeframe for delivery of the required notifications. Supplementary Material .01 of Rule G–10 would make clear that the obligation to provide the required notifications once each calendar year to applicable customers would be deemed satisfied if dealers deliver the required notifications at a given point in each calendar year so long as any customers that effected a transaction in municipal securities or held municipal securities after that given date in each calendar year receive the notifications within the following rolling 12-month period. More explicitly, after a dealer provides the required notifications to the applicable customers, the ensuing notifications must be provided within 12 months from the date of the preceding notifications, but may be provided within a shorter time period.[10] The MSRB believes that the proposed amendments would foster greater flexibility with respect to the timing of the required notifications, and would also ensure that each applicable customer receives the required notification within a rolling 12-month period; and thereby, ease operational concerns.

For example, assume a dealer opts to remit the required notifications on June 30, 2022, and in September 2002 a non-SMMP customer who has never held municipal securities effects a transaction in municipal securities for the first time. The dealer would not be required to remit the notifications to that customer in calendar year 2022, but the dealer would be obligated to remit the notification to that customer, and all other applicable customers, on or before June 30, 2023. In no event may a dealer exceed 12 months without remitting the notifications to a non-SMMP customer who has effected a transaction in municipal securities or who holds municipal securities.

The proposed rule change makes technical amendments to streamline the required notifications by deleting the current provision (a)(ii) of Rule G–10 and placing the reference to the website address for the Municipal Securities Rulemaking Board within the proposed amended provision that re-numbers provision (a)(iii) of Rule G–10 to provision (a)(ii). The proposed amendments also re-numbers the remainder of Rule G–10, accordingly.

2. Statutory Basis

Section 15B(b)(2)(C) of the Exchange Act[30] provides that the MSRB's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.

The MSRB believes that the proposed rule change is consistent with Sections 15B(b)(2)[11] and 15B(b)(2)(C)[12] of the Exchange Act. Rule G–10 would continue to be designed to prevent fraudulent and manipulative acts and the proposed rule change does not diminish such protections. The proposed rule change would help promote just and equitable principles of trade, and protect investors, municipal entities, obligated persons and the public interest by ensuring that customers who have effected a transaction in municipal securities or hold a municipal securities position, during the requisite period, receive information that would be useful to them in understanding the regulatory framework. The proposed rule change may also avoid confusion because dealers would not have to provide notifications to customers who have not effected any municipal securities transactions. More specifically, the proposed rule change is designed to ensure that applicable customers receive beneficial information, through the MSRB's investor brochure, on how to file a complaint about dealers with the appropriate regulatory authority and an overview of the investor protections provided by MSRB rules. The required notifications, which would be provided once each calendar year, are in support of curbing potential fraudulent and manipulative practices, by creating an awareness amongst customers of the SEC and MSRB.

Additionally, for all other customers, including SMMPs, while dealers will not have to provide the required notifications pursuant to Rule G–10(a), such dealers would have to make the required notifications available on their websites in accordance with the rule, and other applicable MSRB rules and federal securities laws, which is in furtherance of the public interest. The MSRB believes that the proposed amendments to Rule G–48 to effectuate the exemption for remitting notifications to SMMPs, so long as the SMMPs have access to such notifications on a dealer's website, will facilitate transactions in municipal securities and help perfect the mechanism of a free and open market in municipal securities by avoiding the imposition of regulatory burdens upon dealers where they appear to be unnecessary. The MSRB currently understands that SMMPs are generally knowledgeable about the registration status of a dealer and how to file a complaint if warranted and can access the information on a dealer's website as needed.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 15B(b)(2)(C) of the Exchange Act requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[13] The MSRB has considered the economic impact associated with the proposed rule change, including a comparison to reasonable alternative regulatory approaches, relative to the baseline.[14] The MSRB does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The purpose of amending Rule G–10 is to better refine the requirement for dealers to provide the required notifications to specified customers. Rule G–10 was originally designed to protect investors by providing them with the information necessary through the investor brochure to file a complaint about their dealers with the appropriate

provides that any member that does not have customers or is a party to a carrying agreement where the carrying firm member complies with the rule is exempt from the requirements of the rule.

[10] A dealer may, of course, elect to provide the required notification more frequently than a rolling 12-month basis.

[11] 15 U.S.C. 78*o*–4(b)(2).

[12] 15 U.S.C. 78*o*–4(b)(2)(C).

[13] 15 U.S.C. 78*o*–4(b)(2)(C).

[14] *See* Policy on the Use of Economic Analysis in MSRB Rulemaking, available at *http://msrb.org/Rules-and-Interpretations/Economic-Analysis-Policy.aspx.* In evaluating whether there was a burden on competition, the Board was guided by its principles that required the Board to consider costs and benefits of a rule change, its impact on capital formation and the main reasonable alternative regulatory approaches.

regulatory authority. As discussed above, prior to the 2017 rule amendments, Rule G–10 only required dealers to send a paper copy of the brochure outlining protections under MSRB rules to investors who had already complained to a dealer. The 2017 amendments replaced the post-complaint delivery requirement with an annual written notification requirement to all customers of a dealer regardless of whether a customer ever effects a municipal securities transaction or owns municipal securities in the account.[15] To reduce the compliance burden on dealers and ensure the greatest utility to customers receiving the notifications, the MSRB proposes to amend Rule G–10(a) to narrow the obligation of dealers to provide the required notifications to only customers who traded municipal securities or held a municipal securities position at the dealer during each calendar year. For all other customers, dealers would be permitted to make such notifications available on their websites in accordance with the rule. Similarly, the MSRB is proposing related amendments to Rule G–48, so that all SMMPs would be exempt as long as dealers make such notifications available on their websites.

The MSRB assessed other regulatory alternatives and determined that the proposed amendments to Rule G–10 and Rule G–48 are superior to these alternatives. One alternative would be to revert the rule back to the pre-2017 version that contained a post-complaint delivery requirement and adding the electronic delivery option. By rolling back the 2017 changes, a dealer would no longer have to provide the notifications to *all* customers, regardless of whether they transacted in municipal securities or own municipal securities. This alternative would alleviate the burden to dealers of sending out thousands of notifications to investors but would still not solve the problem of providing investors with more timely access to information about how to file a complaint and the protections provided under MSRB rules. Another alternative would be to amend Rule G–10 to eliminate the annual notifications delivery requirement. The MSRB already requires dealers to communicate certain information to investors under Rule G–15, on customer confirmations.[16] By amending Rule G–10 to require dealers to also provide a hyperlink to MSRB.org and a statement that the dealer is registered with the SEC and the MSRB, dealers would be able to minimize their direct outreach to investors by utilizing an existing required form of communication (*i.e.,* customer confirmations). However, with this alternative, only customers who have recently transacted in a municipal security would be notified of the information, but not customers who hold municipal securities in their accounts.

Benefits and Costs

The MSRB believes by amending the rule to limit the scope of the delivery obligation to customers who either held or transacted in municipal securities during a 12-month period, compliance burdens to dealers would be lessened. The volume of notifications sent by dealers to customers, many of those who do not own or transact in municipal securities, and therefore receive no utility from such notifications, would be reduced. Additionally, other customers of dealers who do not own or transact in municipal securities would not be subjected to receipt of additional unnecessary communications, which could create noise and confusion for these customers. Furthermore, in striving to focus communications that are appropriate to the customer, the resulting effect may be that customers pay more attention to communications from dealers. Finally, dealers may incur savings from sending out less correspondence to customers due to the narrowed scope of the dealers' obligations; and due to the flexibility provided pursuant to the rule and related proposed amendments to Rule G–48 that exempt other customers and SMMPs.

To evaluate the potential costs to customers, the MSRB divided all dealer customers into four segments to separately compare the future expected state to the current baseline state of each group.

- Customers who currently hold municipal securities and plan to transact again in the future. These customers would not be impacted by the proposed amendments to Rule G–10 since they are expected to receive the required notifications the same way as they receive the notifications now;
- Customers who have never held municipal securities and do not plan to transact in them in the foreseeable future. These customers are currently receiving the notifications even though they do not hold any municipal securities nor effect any municipal securities transactions. The proposed amendments to Rule G–10 would not impact these customers since the notifications are, likely, not relevant to these customers;
- New customers of a dealer. These customers are currently receiving the notifications by the end of each calendar year irrespective of their holding of municipal securities or effecting a transaction in municipal securities. The proposed amendments to Rule G–10 would impact these customers, as they would not receive a notification unless they effected a transaction in municipal securities or held municipal securities at the time the dealer remitted the notifications that calendar year. However, these customers would receive the notification the next calendar year and in no event more than 12 months from the time such customers effected a transaction in municipal securities or held municipal securities;
- Existing customers who have never transacted in municipal securities before but may do so in the future. These customers currently receive notifications even though they have not transacted or held a position in municipal securities. Under the proposed amendments to Rule G–10, these customers would not receive the notifications, required to be delivered once every calendar year, until such time as they have a municipal securities transaction or hold a position in municipal securities. The MSRB has been careful to balance the stated objective of utility of information to customers against the slight risk that could be born out of not providing such required notifications to all customers, once every calendar year. The MSRB notes that such customers would be able to avail themselves of the information provided in the notifications by reviewing a dealer's website. The MSRB also notes that the anecdotal evidence provided by a commenter shows less than one percent of all existing customers who had previously not transacted or owned any municipal security would effect a transaction in municipal securities;[17] and lastly,
- SMMPs who have traded municipal securities or hold a municipal securities position. All SMMPs currently receive annual notifications, but under the proposed amendments to Rule G–48, these customers would not receive the notifications; instead, SMMPs would

[15] *See supra* note 4.

[16] Under Rule G–15(a)(i)(D)(4), the dealer is required to provide a hyperlink to EMMA® for publicly available information on a specific security.

[17] Letter from Leslie M. Norwood, Managing Director and Associate General Counsel, the Securities Industry and Financial Markets Association (''SIFMA Letter'' or ''SIFMA'') dated June 28, 2021: ''SIFMA members state that their estimated percentage of customers that effect a municipal securities transaction that have not previously effected a transaction in municipal securities is anecdotally reported to be less than 1%.''

still be able to avail themselves of the information provided in the notifications by reviewing a dealer's website. Since SMMPs affirm to having a level of sophistication, knowledge and familiarity with the municipal securities market, these notifications add little benefit for SMMPs, if any. By exempting the requirement to send notifications to SMMPs, the proposed amendments would reduce the time and cost burdens for dealers with minimal reduction in benefits for SMMPs.

In addition to any costs to customers, dealers would likely incur some minor costs, relative to the baseline state, to meet the standards of conduct and duties contained in the proposed rule change. These changes may include a one-time upfront cost related to revising policies and procedures, as well as ongoing costs such as compliance costs associated with limiting the receipt to only the relevant municipal securities customers for targeted communication outreach. However, the MSRB believes these costs would be minimal, as firms would be able to leverage their existing customer database to swiftly identify the relevant pool of customers eligible for the required notifications under the proposed rule change.

As to the overall scale of cost reduction to dealers, as well as potential costs to some customers who may no longer receive the notifications unless they initiate a transaction in municipal securities, the MSRB is currently unable to quantify these economic effects precisely because not all the information necessary to provide a reasonable estimate is available. For example, the MSRB is interested in the percentage of dealers' customers who trade or hold municipal securities for a given calendar year, which would be helpful for the MSRB to assess the impact of the draft rule amendments. The MSRB sought the data during the Request for Comment process but was unable to obtain it. Therefore, the MSRB has considered these benefits and costs in qualitative terms.

Effect on Competition, Efficiency, and Capital Formation

The MSRB believes that the proposed rule change would neither impose a burden on competition nor hinder capital formation, as the proposed rule change would reduce burdens to dealers of remitting the notifications to all customers by narrowing the scope of the application of the rule. The MSRB believes that the proposed rule change would improve the municipal securities market's operational efficiency by clarifying existing regulatory obligations, further promoting fair dealings between market participants.

The MSRB does not expect that the proposed rule change would change the competitive landscape of the municipal securities dealer community, as the proposed amendments to Rule G–10 and Rule G–48 would be applicable to all dealers; therefore, the expected benefits and minor costs would be proportionate to the size and business activities of each dealer.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

As previously noted, on May 14, 2021, the MSRB published a Request for Comment, which sought comment on the matters included in the proposed rule change for a period of 45 days. The MSRB received four comment letters.[18] These comments, along with the MSRB's responses, are discussed below.

Narrowing the Scope of Customers Receiving the Dealer Notifications

The MSRB sought comment on whether to narrow the scope of customers who receive the required notifications once every calendar year to include only those customers of the dealer who have effected transactions in municipal securities within the prior one-year or who hold a municipal securities position. All four commenters noted that the MSRB's draft amendments would ensure that the customers who would most benefit from receiving the required information would receive the notifications. Commenters also noted that no longer requiring dealers to provide such notifications unnecessarily to other customers would mitigate the compliance burden on dealers.

One commenter, BDA, recommended that the MSRB exempt dealers from providing issuers the required notifications, stating that ''issuers are financial professionals who understand the municipal market well enough to know about the MSRB and do not require additional annual reminders.'' As a threshold matter, the MSRB does not agree with the premise that all issuers have the same level of market sophistication and should have a wholesale exclusion. Pursuant to Rule D–9, an issuer is a ''customer'' except in the case of a sale by the issuer of a new issue of its securities. Therefore, in these instances, dealers would not be required to provide the required notifications to an issuer.[19] If an issuer is otherwise a customer, a dealer would continue to be obligated to provide the notifications pursuant to Rule G–10(a) unless the issuer customer is an SMMP, which would be determined based on the nature of the issuer, a determination of sophistication by the dealer and an affirmation by the issuer.[20] As noted above, with respect to an SMMP, the proposed amendment to Rule G–48 would allow a dealer to make the notifications available on its website rather than remit the notifications to an SMMP pursuant to Rule G–10(a).

BDA also requested that the MSRB eliminate the annual requirement to provide notifications to customers who do not hold a municipal securities position at the dealer at calendar year-end. BDA stressed that modifying the proposed rule language in such a way would diminish the burden on dealers of looking through stock records to identify municipal securities customers for whom dealers no longer hold positions because they were either transferred, sold or matured entirely prior to the stock record review. The MSRB believes that the proposed rule change requiring the notifications to those customers who effected transactions in municipal securities or who hold a municipal securities position, coupled with the supplementary material on the sequencing of such notifications, strikes the right balance in providing investor protections and reducing regulatory burdens. The MSRB does not believe the rule should be narrowed further as BDA suggests.

Additionally, BDA suggested that municipal advisors should not be obligated to provide municipal advisory clients with the required notifications promptly after the establishment of a municipal advisory relationship or

[18] *See* Letter from Christopher A. Iacovella, Chief Executive Officer, American Securities Association (''ASA Letter'' or ''ASA''), dated June 28, 2021; Letter from Michael Decker, Senior Vice President, Bond Dealers of America (''BDA Letter'' or ''BDA''), dated June 28, 2021; SIFMA Letter; and Letter from Jennifer Szaro (''Szaro Letter'' or ''Szaro''), dated May 17, 2021.

[19] The MSRB did solicit feedback in the RFC on whether Rule G–10 should require dealers to provide notifications to issuer clients at the earliest stage of the underwriter's relationship with such issuer client when an issuer client has not otherwise engaged a municipal advisor. A summary of the comments received in response to this question is discussed in Section C. below.

[20] *See* Rule D–15 on the definition of the term ''Sophisticated Municipal Market Professional.'' In order to deem a customer an SMMP, a dealer is required to determine the nature of the customer and the customer's sophistication level, and also requires the customer's affirmation, as specified in Rule D–15. In addition, this determination must be reasonable, including an analysis of the amount or type of securities owned or under management by the customer. *See* Rule D–15, Supplementary Material .01.

entering into an agreement to undertake a solicitation and annually thereafter during the course of the agreement. BDA asserts that municipal advisors are already providing such notifications as part of the municipal advisor engagement letter. While this comment is outside the scope of the current proposal, MSRB notes the MSRB's municipal advisory client brochure summarizes key principles of the MSRB rules designed to protect municipal advisory clients as well as information on how on how to file a complaint against a municipal advisor with the appropriate federal regulatory authority—information that is not customarily provided as part of the municipal advisor engagement letter. The MSRB continues to believe that requiring municipal advisors to provide the Rule G–10 notifications to municipal advisory clients creates an awareness of the protections afforded by the regulatory framework governing municipal advisory activities.

Exclusion of SMMPs

The MSRB sought comment on whether to exclude SMMPs from receiving the required notifications, so long as dealers provide such notifications on their websites (''website-only notifications''). Both ASA and SIFMA specifically expressed support for the draft amendments, indicating that the placement of the notifications on dealers' websites is also in keeping with the modern approach to seek and find electronic resources on dealers' websites, and provides adequate notice to SMMPs. SIFMA remarked that SMMPs are, by definition, sophisticated investors that should not require ''hand-holding'' in order to find information on the investor brochure on the dealer's website, or elsewhere, or to otherwise require guidance as to how to file a complaint with the appropriate regulatory authority. SIFMA also noted that placement of the customer notifications on dealers' websites provides adequate notice to SMMPs that have engaged in a municipal securities transaction or that maintain a municipal securities position.

The MSRB has had the opportunity to evaluate the implementation of the requirement to provide notifications once every calendar year, which was adopted in 2017,[21] has considered these comments as well as recent stakeholder comments,[22] and has determined that allowing dealers to make the required notifications available on their websites is appropriate for SMMP customers.

Dealer Notifications to Issuer Clients Who Are Not Represented by Municipal Advisors

The MSRB sought comment on whether an issuer in transactions involving the sale by the issuer of a new issue of its securities who are not otherwise represented by a municipal advisor should receive the required notifications from dealers. BDA and SIFMA commented, arguing strongly against providing such notifications to such issuers, noting that dealer disclosures to issuers in transactions involving the sale by the issuer of a new issue of its securities are made in the Bond Purchase Agreement and engagement letters and that requiring the annual notifications will add to the complexity of dealer compliance without greater benefit to such issuer. SIFMA further opined that any such required notifications should be made in the context of underwriter disclosures, under Rule G–17. After review of the comments, the MSRB has determined not to place the additional requirement on dealers to provide the required notifications to such issuers who are not otherwise represented by municipal advisors.

529 Plan Customers

The MSRB sought comment on whether to provide an exception to the notifications requirement that excludes investors in 529 savings plans from receipt of ongoing notifications after their initial purchase of units in a 529 savings plan. SIFMA indicated support for the draft amendments to exclude ongoing notifications to investors of 529 savings plan. The Szaro letter noted that providing the required notifications to such customers entails dealer work and expenses that are not balanced proportionately to the benefit to a customer in receiving the information. SIFMA and Szaro both favored website-only notifications as a sensible and reasonable option for dealers who have websites. Given that 529 savings plans (and other municipal fund securities) are offered and serviced as a benefit to customers that typically hold other securities in their brokerage accounts, unintended operational challenges may be introduced by establishing a different requirement for the delivery of the required notifications for municipal fund securities. In reviewing the comments received, the MSRB does not believe there is compelling information to warrant a change from the current requirements under Rule G–10.

Website-Only Notifications for All Customers

The proposed amendments to Rule G–10 exclude the required notifications to customers that have not, and may never, engage in municipal securities transactions, so long as the dealer has the notifications available to such customers on its website. Szaro and ASA suggested removing the requirement for the notifications to be remitted to customers of the dealer who effected a transaction in municipal securities or who held a municipal securities position in favor of making such notifications available to all customers by having the notifications available only on the dealer's website. Szaro and ASA stated that customers today prefer to review information about dealers from dealers' websites and that individualized annual notifications could be eliminated without threatening investor protections.

The MSRB believes that the proposed rule change strikes the correct balance by requiring the notifications only to those customers who would most benefit by their receipt (*i.e.,* customers of the dealer who effected a transaction in municipal securities or who hold a municipal securities position) and permitting the notifications to be available to all customers on a dealer's website. Moreover, the MSRB believes that receipt of such push notifications is in furtherance of investor protection, and that such information would not be as easily ascertained by a customer having to undergo a search for the information on a dealer's website.[23]

Clarify Timeframe for Delivery of Notifications

SIFMA and BDA stated that the MSRB should clarify the timeframe for delivery of the annual notifications by modifying the draft proposed rule language from ''once every calendar year'' to prescribe that delivery of such notifications should be made ''at least annually'' or ''at least once a year.'' BDA noted that the change in the delivery timeframe would reduce dealer printing burdens as they may couple these notifications with other required disclosures.

The MSRB acknowledges that it has previously indicated in the form of FAQs[24] that the obligation to provide

[21] *See supra* note 4.

[22] *See supra* note 7.

[23] SIFMA suggested extending website-only notifications delivery to municipal advisory clients. As previously mentioned, the MSRB limited the scope of the RFC to dealer obligations to their customers and is not modifying municipal advisor's obligations under the Rule G–10.

[24] *See* FAQs on MSRB Rules on Investor and Municipal Advisory Client Education and Protection (September 2017).

the required notifications ''once every calendar year'' has meant by the end of each calendar year. The MSRB does not propose to move away from the current rule text that states the required notifications must be made ''once every calendar year,'' because this language is consistent with the language governing the obligations of municipal advisors to provide the same required notifications to municipal advisory clients. The MSRB believes that proposed amendments will provide clarification and flexibility on the sequencing of the required notifications. Specifically, proposed Supplementary Material .01 allows a dealer to provide the notifications to the applicable customers at any given point in each calendar year, but also recognizes that there may be additional customer(s) that effect a purchase or sale of a municipal security or hold a municipal security after the notifications have been delivered that calendar year. Accordingly, Supplementary Material .01 allows such customers to receive the notifications within the following rolling 12-month period. The MSRB would revise existing compliance resources, including the FAQs, as necessary to be aligned with the proposed rule change.

Permitting Notifications by Clearing Firms Per Agreement

The MSRB sought comment on draft amendments that proposed to exclude a dealer that is a party to a carrying agreement, where the carrying dealer provides such required notifications, from the requirements under Rule G–10. Both SIFMA and BDA generally supported this provision but suggested clarifying language to reflect the agreement to undertake the obligation to provide the required notifications. The MSRB is clarifying the proposed rule language to reflect firms' agreement about which party will undertake the Rule G–10 notifications obligation.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period of up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MSRB–2021–04 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–MSRB–2021–04. 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 MSRB. 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–MSRB–2021–04 and should be submitted on or before September 10, 2021.

[25] 17 CFR 200.30–3(a)(12).

For the Commission, pursuant to delegated authority.[25]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–17830 Filed 8–19–21; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17087 and #17088; Montana Disaster Number MT–00143]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Montana

AGENCY: U.S. Small Business Administration.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Montana (FEMA–4608–DR), dated 08/13/2021.

ACTION: Notice.

Incident: Straight-line Winds.

Incident Period: 06/10/2021.

DATES: Issued on 08/13/2021.

Physical Loan Application Deadline Date: 10/12/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 05/13/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 08/13/2021, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Dawson, Garfield, Mccone, Richland, Roosevelt.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	

	Percent
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 17087 B and for economic injury is 17088 0.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–17871 Filed 8–19–21; 8:45 am]

BILLING CODE 8026–03–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2021–0024]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and extensions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA

Comments: https://www.reginfo.gov/public/do/PRAMain. Submit your comments online referencing Docket ID Number [SSA–2021–0024].

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*

Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain,* referencing Docket ID Number [SSA–2021–0024].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than October 19, 2021. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. *Request for Waiver of Overpayment Recovery and Request for Change in Overpayment Recovery Rate—20 CFR 404.502, 404.506–404.512, 416.550–416.558, 416.570–416.571—0960–0037.* When Social Security beneficiaries and Supplemental Security Income (SSI) recipients receive an overpayment, they must return the extra money. These beneficiaries and recipients can use Form SSA–632–BK, Request for Waiver of Overpayment Recovery, to request a waiver from repaying their overpayment. Beneficiaries and recipients can also use Form SSA–634, Request for Change in Overpayment Recovery Rate, to request a change to the monthly recovery rate of their overpayment. The respondents must provide financial information to help the agency determine how much the overpaid person can afford to repay each month. The respondents are individuals who are overpaid Social Security or SSI payments who are requesting: (1) A waiver of recovery of an overpayment, or (2) a lesser rate of withholding.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time in field office or for teleservice centers (minutes)**	Total annual opportunity cost (dollars)***
SSA–632—Request for Waiver of Overpayment Recovery (If completing entire paper form, including the AFI authorization)	400,000	1	120	800,000	* $10.95	** 21	*** $10,293,000
SSA–634—Request for Change in Overpayment Recovery Rate (Completing paper form)	100,000	1	45	75,000	* 10.95	** 21	*** 1,204,500
Totals	500,000			875,000			*** 11,497,500

* We based this figure on the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*).

** We based this figure on averaging both the average FY 2021 wait times for field offices and teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. *Statement of Claimant or Other Person—20 CFR 404.702 and 416.570—0960–0045.* SSA uses Form SSA–795, Statement of Claimant or Other Person, in special situations where there is no authorized form or questionnaire, yet we require a signed statement from the applicant, claimant, or other individuals who have knowledge of facts, in connection with claims for Social Security benefits or SSI. The information we request on the SSA–795 is of sufficient importance that we need both a signed statement and a penalty clause. SSA uses this information to process, in addition to claims for benefits, issues about continuing eligibility; ongoing benefit amounts; use of funds by a representative payee; fraud investigation; and other program-related matters. The most common respondents are applicants for, or recipients of, Social Security or SSI. Respondents also include friends and relatives of the involved parties, coworkers, neighbors, or anyone else in a position to provide information pertinent to the issue(s).

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time in field office (minutes)**	Total Annual Opportunity Cost (dollars)***
SSA–795 (paper version)	207,239	1	15	51,810	* $10.95	** 24	*** $1,475,031
SSA–795 (Person Statement) electronic version	24,583	1	15	6,146	* 27.07		*** 166,372
Totals	231,822			57,956			*** 1,641,403

* We based these figures on the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*) and on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).
** We based this figure on the average FY 2021 wait times for field offices, based on SSA's current management information data.
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. *Claimant's Medications—20 CFR 404.1512 and 416.912—0960–0289.* In cases where claimants request a hearing after denial of their disability claim for Social Security, SSA uses Form HA–4632, Claimant's Medications, to request information from the claimant regarding the medications they use. This information helps the judge overseeing the case to fully investigate: (1) The claimant's medical treatment and (2) the effects of the medications on the claimant's medical impairments and functional capacity. The judge makes the completed form a part of the documentary evidence of record, placing it in the official record of the proceedings as an exhibit. The respondents are applicants (or their representatives) for Old Age Survivors and Disability Insurance (OASDI) benefits or SSI payments who request a hearing to contest an agency denial of their claim.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time in field office (minutes)**	Total Annual Opportunity Cost (dollars)***
HA–46321—PDF/paper version	53,200	1	15	13,300	* $10.95	** 24	*** $378,651
Electronic Records Express Submissions	136,800	1	15	34,200	* 27.07		*** 925,794
Totals	190,000			47,500			*** 1,304,445

* We based this figure on the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*) and on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).
** We based this figure on the average FY 2021 wait times for field offices, based on SSA's current management information data.
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. *Disability Report-Adult—20 CFR 404.1512 and 416.912—0960–0579.* State Disability Determination Services (DDS) use Form SSA–3368, Disabilty Report—Adult, and its electronic versions, to determine if adult disability applicants' impairments are severe and, if so, how the impairments affect the applicants' ability to work. This determination informs whether the DDSs and SSA will find the applicant to be disabled and entitled to SSI payments. The respondents are applicants for Title II disability benefits or Title XVI SSI payments.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time in field office (minutes)**	Total Annual Opportunity Cost (dollars)***
SSA–3368 (Paper)	6,045	1	90	9,068	* $10.95	** 21	*** $122,465
EDCS 3368 (Intranet)	1,263,104	1	90	1,894,656	* 10.95	** 21	*** 25,587,325
i3368 (Internet)	989,361	1	90	1,484,042	* 10.95		*** 16,250,260
Totals	2,258,510			3,387,766			*** 41,960,050

* We based this figure on the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*).
** We based this figure on averaging both the average FY 2021 wait times for field offices and teleservice centers, based on SSA's current management information data.
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

5. *Request for internet Services and 800# Automated Telephone Services Knowledge-Based Authentication (RISA–KBA)—20 CFR 401.45—0960–0596.* The Request for internet Services and 800# Automated Telephone Services (RISA) Knowledge-Based Authentication (KBA) is one of the authentication methods SSA uses to allow individuals access to their personal information through our internet and Automated Telephone Services. SSA asks individuals and third parties who seek personal information from SSA records, or who register to participate in SSA's online business services, to provide certain identifying information. As an extra measure of protection, SSA asks requestors who use the internet and telephone services to provide additional

identifying information unique to those individuals so SSA can authenticate their identities before releasing personal information. The respondents are current beneficiaries who are requesting personal information from SSA, and individuals and third parties who are registering for SSA's online business services.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Internet Requestors	2,921,795	1	3	146,090	* $27.07	** $3,954,656
Telephone Requestors	1,157,833	1	4	77,189	* 27.07	** 2,089,506
Totals	4,079,628			223,279		** 6,044,162

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

6. *Testimony by Employees and the Production of Records and Information in Legal Proceedings—20 CFR 403.100–403.155—0960–0619.* SSA's regulations establish policies and procedures for an individual, organization, or government entity to request official agency information, records, or testimony of an agency employee in a legal proceeding when the agency is not a party. The request, which respondents submit in writing, must: (1) Fully set out the nature and relevance of the sought testimony; (2) explain why the information is not available by other means; (3) explain why it is in SSA's interest to provide the testimony; and (4) provide the date, time, and place for the testimony. Respondents are individuals or entities who request testimony from SSA employees in connection with a legal proceeding.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
20 CFR 403.100–403.155	100	1	60	100	* $27.07	** $2,707

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

7. *Certification of Prisoner Identity Information—20 CFR 422.107—0960–0688.* Inmates of Federal, State, or local prisons may need a Social Security card as verification of their Social Security number for school or work programs, or as proof of employment eligibility upon release from incarceration. Before SSA can issue a replacement Social Security card, applicants must show SSA proof of their identity. People who are in prison for an extended period typically do not have current identity documents. Therefore, under written agreement with the correctional institution, SSA allows prison officials to verify the identity of certain incarcerated U.S. citizens who need replacement Social Security cards. Prison officials provide SSA information from the official prison files, sent on correctional facility letterhead. SSA uses this information to establish the applicant's identity in the replacement Social Security card process. The respondents are prison officials who certify the identity of prisoners applying for replacement Social Security cards.

Type of Request: Extension of an OMB-approved Information Collection

Modality of completion	Number of respondents	Frequency of response	Number of responses	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Verification of Prisoner Identity Statements	1,000	200	200,000	3	10,000	* $28.80	** $288,000

* We based this figure on average Probation Officers and Correctional Treatment Specialists hourly salary, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes211092.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding this information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than September 20, 2021. Individuals can obtain copies of this OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Authorization for the Social Security Administration to Obtain Account Records from a Financial Institution

and Request for Records (Medicare)—20 CFR 418.3420—0960–0729. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) established the Medicare Part D program for voluntary prescription drug coverage of premium, deductible, and copayment costs for individuals with limited income and resources. The MMA mandates that the Government provide subsidies for those individuals who qualify for the program, and who meet eligibility criteria for help with premium, deductible, or co-payment costs. SSA uses the SSA–4640, Authorization for the Social Security Administration to Obtain Account Records from a Financial Institution and Request for Records (Medicare), to determine if subsidy applicants or recipients qualify, or continue to qualify, for the subsidy. SSA uses Form SSA–4640 to: (1) Obtain the individual's consent to verify balances of financial institution (FI) accounts; and (2) obtain verification of such balances from the FI. Respondents are Medicare Part D program subsidy applicants or claimants, and their financial institutions.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
Medicare Part D Subsidy Applicants	5,000	1	1	83	* $10.95	** $909
Financial Institutions	5,000	1	4	333	* 37.56	** 12,507
Totals	10,000			416		** 13,416

* We based these figures on the average DI payments based on SSA's current FY 2021 data *https://www.ssa.gov/legislation/2021FactSheet.pdf*), and the average Business and Financial operations occupations, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes130000.htm*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: August 17, 2021.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2021–17857 Filed 8–19–21; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice: 11505]

Ninth Summit of the Americas Leaders Meeting

We are delighted to inform that U.S. cities are invited to present proposals to host the concluding week of high-level events and meetings of the Ninth Summit of the Americas (Summit) process to occur during summer 2022. Over the course of approximately two to five days, the United States Government will organize official and informal events, bilateral meetings, and media events that Chiefs of State and Heads of Government and senior officials of participating governments from the Western Hemisphere will attend.

As many as 10,000 participants, including support staff, security, media, and businesspersons may attend. Global media attention will focus on the leaders' meeting at the Summit. The President of the United States and up to 50 Chiefs of State, Heads of Government, and high-level participants from the governments of the Americas, regional and global international organizations, and other special guests are expected to attend. Each Summit delegation will likely be comprised of Cabinet Ministers, Senior Advisors, Security Officers, and members of the Foreign Media. The Summit's associated high-level stakeholder forums and events, which may include but are not limited to the CEO Summit of the Americas, Civil Society Forum, Young Americas Forum, and commercial exhibitions, will attract prominent business executives, local government and civil society leaders, and youth entrepreneurs from around the world. With this many high-profile visitors, security will be a major consideration for the selection of the city and conference venues. The following meetings could be held during the Summit week: (1) Concluding Summit Implementation Review Group (SIRG) National Summit Coordinators Plenipotentiaries Meeting—2–3 days, approximately 200 delegates; (2) SIRG Ministerial Meeting—1 day, approximately 300 delegates; (3) CEO Summit—3 days, approximately 1,000 to 5,000 attendees; (4) Civil Society Forum—2 days, approximately 1,000 to 1,200 attendees; (5) Young Americas Forum—2 days, approximately 500 to 700 attendees; (6) Summit inaugural ceremony and dinner—half day, restricted attendance 1,000 to 3,000 delegates at the ceremony, and approximately two groups of 100 to 300 attendees each at separate receptions/dinners; (7) Summit Leaders Meeting—1 to 2 days, restricted in-room attendance up to 300 delegates; approximately 10,000 delegates in other venues. Additional stakeholder forums, events and meetings may take place throughout the week as well. The minimum requirements are as follows: An international airport with frequent and consistent connections to and from countries in the Western Hemisphere (further information about the Summit of the Americas can be found at the website for the Ninth Summit of the Americas: *www.IXSummitAmericas.org,* or the Summits of the Americas Secretariat's website: *www.summit-americas.org*); an identified Fixed Based Operator (FBO) for private aircraft arrivals/departures and adequate parking space for 30 private aircraft; approximately 20,000 hotel room nights of international standard including 100 suites for Heads of Government and cabinet-level Ministers; Conference facilities for multiple meetings; Political, business, and civic support; Local security capable of supporting delegates and VIPs.

Preparation of Proposals

Deadline is September 3, 2021. Proposals must be submitted by email as a single PDF from a verified state/territory or municipal government email address to *IX-SummitAmericas@state.gov.* Items supporting proposals, including additional attachments, videos, or professional video presentations of the city and/or convention space, should identify complete URLs in the PDF. Questions about the proposal and submission process can be directed to *IX-SummitAmericas@state.gov.* Questions

will be responded to in a timely manner. All information in the proposal, including quoted prices, must be valid for 60 days after the due date. Proposals must have the following sections: (1) *One-page executive summary of what the city offers.* (2) *General city description:* (a) Letter of support from the mayor or city's senior elected official(s); (b) letter of support from the state governor; (c) letter of support from local civic and business groups; (d) a past performance statement which indicates the city's successful experience hosting large meetings and events; (e) description of the metropolitan area's ties to the Western Hemisphere; and (f) description and availability of venues that could be used for large events. (3) *Hotel availabilities:* (a) A list of three and four star hotels in proximity to the proposed primary venues including facility amenities such as high-speed wireless internet access, cell phone coverage for large groups, restaurants, and accommodations for VIPs; (4) *Primary event venue facilities:* (a) Catering, audio-visual, perimeter security, on-site maintenance, management, medical, cell phone coverage for large groups, and high speed internet access, including the relevant pricing schedule for internet provision within the primary event venue and a description of the agility of internet bandwidth infrastructure, including whether unencumbered connections are possible and including detail on any broadcast fiber connectivity between the primary venue and a major teleport; (b) dedicated entrance for Summit delegates, if any; (c) meeting rooms; (d) transportation between hotels and conference facilities; and (e) spreadsheet indicating costs and availabilities of primary event venues for timeframe indicated; within. Please address the following questions:

How will the city provide security for the delegates and VIPs including the U.S. President? Only the U.S. President and other Chiefs of State and Heads of Government will have United States Secret Service (USSS) protective details. Each will be eligible to receive a protective detail that include a vehicle package, the size of which is determined by threat level. The Secretary of State has 24/7 Diplomatic Security Service (DS) protection. Heads of Delegations who are not Chiefs of State or Heads of Government would NOT receive USSS protection, but, based on a threat assessment, might be eligible for DS protection. Local Police Departments (PD) normally provide route, motorcade, and intelligence support to the USSS. Local PDs historically have the lead responsibility for providing crowd control, demonstration control and riot response. *If required, will the city block off streets around the conference venue and hotels for Heads of State and Government?* The conference facility would have tight perimeter and access controls. Security arrangements for hotels are based on threat information relating to the Heads of State and Government and will be determined on a case-by-case basis by the USSS and Local PD. Not every hotel would necessarily have total perimeter controls. Conversely, a central hotel might meet criteria for closed streets and public access.

How will the city fund the extra security required for this conference? Cities that bid on such events must take into account and budget for the extensive costs of Security and Public Safety, as that responsibility lies solely with the host city. The USSS and DS do not reimburse local police for costs of supporting visiting foreign dignitaries. Some cities in the past have been able to obtain funding to offset security costs through Congress when requests for funding support have been initiated by their congressional representatives. This event would likely receive a Department of Homeland Security, Special Event Activity Report (SEAR) Level One. It could possibly receive designation as a National Security Special Event (NSSE), which may not be determined until approximately one year or less prior to the event. The SEAR and NSSE designations are made based on certain criteria by either the DHS Special Event Working Group or the NSSE Working Group (Interagency Security groups that use methodology to determine an event's rating.) Neither designation provides funding to local public safety agencies, but the ultimate SEAR level and, if applicable, NSSE designation, does outline the level of support that Federal agencies can provide.

What public safety infrastructure is available? Address the following: (1) *Police:* (a) Special operations capabilities; (b) VIP protection; (c) riot and crowd control response to incidents; (d) explosive detection and disposal; (e) traffic controls; (f) Intelligence Division; (g) mutual aid agreements/memorandum of understanding with surrounding jurisdictions/state police; (h) communication center and procedures; and (i) current emergency plan. (2) *Fire/emergency medical service:* (a) Chemical Biological Radiological and Nuclear detection/procedures; (b) first responders; (c) equipment/training and trained staff on hand. (3) *Emergency Management:* (a) Mass casualty; (b) terrorist attack; and (c) natural disaster. (4) *Emergency Facilities:* (a) Hospital/Medical Centers; (b) emergency backup communications; (c) emergency supplies; and (d) evacuation plans. (5) *Public health:* (a) measures used to mitigate the spread of viruses; (b) protocols for responding to outbreaks.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, U.S. Department of State.

[FR Doc. 2021–17852 Filed 8–19–21; 8:45 am]

BILLING CODE 4710–29–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 410X)]

Norfolk Southern Railway Company—Discontinuance of Trackage Rights Exemption—in Luzerne and Carbon Counties, Pa.

Norfolk Southern Railway Company (NSR) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue overhead trackage rights operations over approximately 56.7 miles of rail line owned by Reading Blue Mountain and Northern Railroad Company (RBMN) located between milepost 119.3 in Lehighton Yard and milepost 175.5 in Dupont, Pa., in Luzerne and Carbon Counties, Pa. (the Line).[1] The Line traverses U.S. Postal Service Zip Codes 18235, 18229, 18255, 18661, 18711, 18707, 18706, 18640, and 18641.

NSR has certified that: (1) It has moved no local traffic over the Line for at least two years; (2) any common carrier overhead traffic can be rerouted; (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 on the Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 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 discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth &*

[1] NSR states that it acquired overhead trackage rights for the Line in 2002. *See Norfolk S. Ry.—Trackage Rts. Exemption—Reading Blue Mountain & N.R.R.,* FD 34225 (STB served July 25, 2002).

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) [2] to subsidize continued rail service has been received, this exemption will be effective on September 19, 2021, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [3] must be filed by August 30, 2021.[4] Petitions to reopen must be filed by September 9, 2021.

All pleadings, referring to Docket No. AB 290 (Sub-No. 410X), should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading filed with the Board should be sent to NSR's representative, Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW, Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available at *www.stb.gov.*

Decided: August 17, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2021–17859 Filed 8–19–21; 8:45 am]

BILLING CODE 4915–01–P

[2] Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[3] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

[4] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require an environmental review.

SUSQUEHANNA RIVER BASIN COMMISSION

Grandfathering (GF) Registration Notice

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: This notice lists Grandfathering Registration for projects by the Susquehanna River Basin Commission during the period set forth in **DATES**.

DATES: July 1–31, 2021.

ADDRESSES: Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, PA 17110–1788.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists GF Registration for projects, described below, pursuant to 18 CFR 806, Subpart E for the time period specified above:

Grandfathering Registration Under 18 CFR Part 806, Subpart E

1. Benton Municipal Water & Sewer Authority—Public Water Supply System, GF Certificate No. GF–202107175, Benton Township, Columbia County, Pa.; Artesian Well No. 1; Issue Date: July 22, 2021.

2. The Procter & Gamble Paper Products Company—Mehoopany Plant, GF Certificate No. GF–202107176, Washington Township, Wyoming County, Pa.; Susquehanna River and Well 4; Issue Date: July 22, 2021.

3. TTGC, Inc.—Tree Top Golf Course, GF Certificate No. GF–202107177, Mount Joy Township, Lancaster County, Pa.; Hole 13 Well, Hole 15 Well, Hole 17 Well, and Hole 5 Pond; Issue Date: July 22, 2021.

4. Jersey Shore Steel Company—Jersey Shore Steel, GF Certificate No. GF–202107178, Pine Creek Township, Clinton County, Pa.; the Well and consumptive use; Issue Date: July 27, 2021.

5. West St. Clair Township-Pleasantville Borough Municipal Authority—Public Water Supply System, GF Certificate No. GF–202107179, West St. Clair Township and Pleasantville Borough, Bedford County, Pa.; Well 001; Issue Date: July 27, 2021.

Dated: August 17, 2021

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2021–17882 Filed 8–19–21; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that the Advisory Committee on Women Veterans will conduct a virtual site visit on August 24–27, 2021, with the Veterans Integrated Service Network (VISN) 20: Northwest Network and the VA Portland Health Care System (VAPORHCS) in Portland, OR.

Date	Time	Location
August 24, 2021	10:00 a.m.–2:30 p.m. (PT)	See Webex link and call-in information below.
August 25, 2021	10:00 a.m.–2:30 p.m. (PT)	See Webex link and call-in information below.
August 26, 2021	10:00 a.m.–2:00 p.m. (PT)	See Webex link and call-in information below.
August 27, 2021	10:00 a.m.–11:00 a.m. (PT)	See Webex link and call-in information below.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

On Tuesday, August 24, the agenda includes overviews of: VISN 20's facilities and programs; an overview of VISN 20 services for women Veterans; and an overview of VAPORHCS facilities, programs and community partners.

On Wednesday, August 25, the agenda includes a continuation of briefings on VAPORHCS' programs and services for women Veterans. On Thursday, August 26, the agenda includes briefings on: Oregon State

services and initiatives for women Veterans; an overview of Portland Regional Benefits Office's business lines and initiatives; and an overview of Willamette National Cemetery's services and programs.

On Friday, August 27, the committee will conduct an out-briefing with leadership from VISN 20, VAPORHCS, Portland Regional Benefits Office and Willamette National Cemetery. From 11:30 a.m.–12:30 p.m., the Committee will observe a women Veterans town hall meeting hosted by the VAPORHCS. The meeting sessions and town hall meeting are open to the public. Information about the town hall meeting will be provided to the public by the VAPORHCS.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Ms. Shannon L. Middleton at *00W@mail.va.gov* no later than August 13. Any member of the public who wishes to participate in the virtual site visit may use the following WebEx link: *https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m0811fbff8f35b9c770c5d88657d99b68;* meeting number: 199 198 2364; password: aiPG43Znt*7. Participants can also join by phone (toll free) at 1–404–397–1596; access code: 199 198 2364##.

Dated: August 17, 2021.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–17879 Filed 8–19–21; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

Vol. 86 Friday,

No. 159 August 20, 2021

Part II

Department of Homeland Security

8 CFR Parts 208 and 235

Department of Justice

Executive Office for Immigration Review

8 CFR Parts 1003, 1208, and 1235

Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 208 and 235

[CIS No. 2692–21; DHS Docket No. USCIS–2021–0012]

RIN 1615–AC67

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1003, 1208, and 1235

[A.G. Order No. 5116–2021]

RIN 1125–AB20

Procedures for Credible Fear Screening and Consideration of Asylum, Withholding of Removal, and CAT Protection Claims by Asylum Officers

AGENCY: Executive Office for Immigration Review, Department of Justice; U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Justice (''DOJ'') and the Department of Homeland Security (''DHS'') (collectively, ''the Departments'') are proposing to amend the regulations governing the determination of certain protection claims raised by individuals subject to expedited removal and found to have a credible fear of persecution or torture. Under the proposed rule, such individuals could have their claims for asylum, withholding of removal under section 241(b)(3) of the Immigration and Nationality Act (''INA'' or ''the Act'') (''statutory withholding of removal''), or protection under the regulations issued pursuant to the legislation implementing U.S. obligations under Article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (''CAT'') initially adjudicated by an asylum officer within U.S. Citizenship and Immigration Services (''USCIS''). Such individuals who are granted relief by the asylum officer would be entitled to asylum, withholding of removal, or protection under CAT, as appropriate. Such individuals who are denied protection would be able to seek prompt, de novo review with an immigration judge (''IJ'') in the DOJ Executive Office for Immigration Review (''EOIR''), with appeal available to the Board of Immigration Appeals (''BIA''). These changes are intended to improve the Departments' ability to consider the asylum claims of individuals encountered at or near the border more promptly while ensuring fundamental fairness. In addition, among other changes to the asylum process, the Departments are proposing to return to the regulatory framework governing the credible fear screening process in place before various regulatory changes made from the end of 2018 through the end of 2020, so as to apply once more the longstanding ''significant possibility'' screening standard to all protection claims, but not to apply the mandatory bars to asylum and withholding of removal (with limited exception) at this initial screening stage.

DATES: *Submission of public comments:* Written comments and related material must be submitted on or October 19, 2021. The electronic Federal Docket Management System will accept comments prior to midnight Eastern standard time at the end of that day.

ADDRESSES: You may submit comments on the entirety of this rulemaking package, identified by DHS Docket No. USCIS–2021–0012, through the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the website instructions for submitting comments.

Comments submitted in a manner other than the one listed above, including emails or letters sent to DHS, USCIS, DOJ, or EOIR officials, will not be considered comments on the proposed rule and may not receive a response from the Departments. Please note that the Departments cannot accept any comments that are hand-delivered or couriered. In addition, the Departments cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. The Departments also are not accepting mailed comments at this time. If you cannot submit your comment by using *https://www.regulations.gov,* please contact Samantha Deshommes, Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, by telephone at (240) 721–3000 for alternate instructions.

FOR FURTHER INFORMATION CONTACT:

For USCIS: Andria Strano, Acting Chief, Division of Humanitarian Affairs, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20588–0009; telephone (240) 721–3000 (not a toll-free call).

For EOIR: Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, 5107 Leesburg Pike, Falls Church, VA 22041; telephone (703) 305–0289 (not a toll-free call).

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I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, comments, and arguments on all aspects of this rule by the deadline stated above. The Departments also invite comments that relate to the economic, environmental, or federalism effects that might result from this rule. All comments must be submitted in English or accompanied by an English translation. Comments that will provide the most assistance to the Departments in developing these changes will reference a specific portion of the rule; explain the reason for any

recommended change; and include data, information, or authority that support such recommended change. Comments submitted in a manner other than the one listed above, including emails or letters sent to departmental officials, will not be considered comments on the proposed rule and may not receive a response from the Departments.

Instructions: If you submit a comment, you must include the agency name (U.S. Citizenship and Immigration Services) and the DHS Docket No. USCIS–2021–0012 for this rulemaking. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission you make to the Departments. The Departments may withhold from public viewing information provided in comments that they determine may impact the privacy of an individual or is offensive. For additional information, please read the Privacy and Security Notice available at *https://www.regulations.gov.*

Docket: For access to the docket and to read background documents or comments received, go to *https://www.regulations.gov,* referencing DHS Docket No. USCIS–2021–0012. You also may sign up for email alerts on the online docket to be notified when comments are posted or a final rule is published.

II. Background

There is wide agreement that the system for dealing with asylum and related protection claims at the southwest border has long been ''overwhelmed'' and in desperate need of repair.[1] As the number of such claims has skyrocketed over the years, the system has proven unable to keep pace, resulting in large backlogs and lengthy adjudication delays. A system that takes years to reach a result is simply not a functional one. It delays justice and certainty for those who need protection, and it encourages abuse by those who will not qualify for protection and smugglers who exploit the delay for profit. The aim of this rule is to begin replacing the current system, within the confines of the law, with a better and more efficient one that will adjudicate protection claims fairly and expeditiously. The proposed rule would accomplish this goal by transferring the initial responsibility for adjudicating asylum and related protection claims[2] made by noncitizens encountered at or near the border from IJs in EOIR to asylum officers in USCIS. The proposed rule would also provide for the prompt filing of asylum applications by such individuals, while also providing ample procedural safeguards designed to ensure due process, respect human dignity, and promote equity.

The current U.S. protection system at the border was initially designed in the mid-1990s.[3] Congress established an expedited removal process for noncitizens who present themselves at a port of entry for inspection or are encountered at or near the border and who are found to be inadmissible because they lack valid entry documents or because they sought to enter the United States by fraud or misrepresentation. INA 235(b)(1)(A)(i), 8 U.S.C. 1225(b)(1)(A)(i); INA 212(a)(6)(C), (7), 8 U.S.C. 1182(a)(6)(C), (7). Congress authorized DHS to extend the expedited removal process to certain noncitizens apprehended shortly after crossing the border unlawfully, and DHS has exercised that authority. INA 235(b)(1)(A)(iii), 8 U.S.C. 1225(b)(1)(A)(iii).[4]

A DHS immigration officer who encounters a noncitizen subject to expedited removal may order the noncitizen to be ''removed from the United States without further hearing or review'' unless the noncitizen indicates either ''an intention to apply for asylum'' or ''a fear of persecution.'' INA 235 (b)(1)(A)(i), 8 U.S.C. 1225(b)(1)(A)(i). If the noncitizen indicates such an intention or fear, the immigration officer must refer the noncitizen for an interview by an asylum officer to determine whether the noncitizen has a ''credible fear of persecution.'' INA 235(b)(1)(A)(ii), (B)(ii), 8 U.S.C. 1225(b)(1)(A)(ii), (B)(ii). A credible fear is defined by statute as a ''significant possibility'' that the noncitizen could establish eligibility for asylum. INA 235(b)(1)(B)(v), 8 U.S.C. 1225(b)(1)(B)(v). Before various regulatory changes published between 2018 and 2020, explained in greater detail below, the ''significant possibility'' standard also was applied to screening for eligibility for statutory withholding of removal and CAT protection.[5] Because those recent regulatory changes have been vacated or enjoined, the ''significant possibility'' standard presently applies to all three forms of protection claims.[6] If the asylum officer determines that the noncitizen lacks a credible fear, that determination is subject to expedited review by an IJ, but not by the BIA or an Article III court. INA 235(b)(1)(B)(iii)(III), 8 U.S.C. 1225(b)(1)(B)(iii)(III); *see* INA

[1] *See* DHS, Homeland Security Advisory Council, *Final Emergency Interim Report: CBP Families and Children Care Panel,* at 1 (Apr. 16, 2019), *https://www.dhs.gov/sites/default/files/publications/19_0416_hsac-emergency-interim-report.pdf;* Randy Capps et al., *From Control to Crisis: Changing Trends and Policies Reshaping U.S.-Mexico Border Enforcement* 7, Migration Policy Institute (MPI) (Aug. 2019), *https://www.migrationpolicy.org/sites/default/files/publications/BorderSecurity-ControltoCrisis-Report-Final.pdf* (''as arrivals have surged to levels unseen in years, border enforcement and asylum systems have been overwhelmed''); Lora Ries, *Securing the Border and Fixing Our Broken Immigration System,* Heritage Foundation (Sept. 21, 2020), *https://www.heritage.org/immigration/commentary/securing-the-border-and-fixing-our-broken-immigration-system* (''our immigration court system is so overwhelmed, [asylum] cases of merit are combined with meritless cases, each of which can take years to resolve''); Greg Chen & Peter Markowitz, *Recommendations for DOJ and EOIR Leadership To Systematically Remove Non-Priority Cases from the Immigration Court Backlog* 1, Am. Immigr. Law. Ass'n (Feb. 11, 2021), *https://www.aila.org/infonet/*remove-non-priority-cases (''The bottleneck for the entire removal system caused by the court backlog, if not addressed quickly, presents a serious obstacle to the Biden administration's goal of ensuring the fair and efficient processing of all removal cases.'').

[2] The generic term ''protection claims'' is used here to refer to all three forms of protection addressed in this proposed rule (asylum, statutory withholding of removal, and protection from removal under the regulations implementing U.S. obligations under Article 3 of the CAT).

[3] *See* Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, div. C, 110 Stat. 3009, 3009–546 (1996) (''IIRIRA'').

[4] The former Immigration and Naturalization Service (''INS'') initially implemented expedited removal only against noncitizens arriving at ports of entry. In 2002, DHS expanded the application of expedited removal to noncitizens who (1) entered the United States by sea, either by boat or other means, (2) were not admitted or paroled into the United States, and (3) have not been continuously present in the United States for at least 2 years. Notice Designating Aliens Subject to Expedited Removal Under Section 235(b)(1)(A)(iii) of the Immigration and Nationality Act, 67 FR 68924 (Nov. 13, 2002). In 2004, DHS published an immediately effective notice in the **Federal Register** to expand the application of expedited removal to noncitizens encountered within 100 miles of the border and to noncitizens who entered the United States without inspection fewer than 14 days before they were encountered. Designating Aliens for Expedited Removal, 69 FR 48877 (Aug. 11, 2004). In 2019, DHS expanded the process to the full extent authorized by statute to reach noncitizens who entered the country without inspection less than 2 years before being apprehended and who were encountered anywhere in the United States. Designating Aliens for Expedited Removal, 84 FR 35409 (July 23, 2019). President Biden has directed DHS to consider whether to modify, revoke, or rescind that 2019 expansion. E.O. 14010, *Ensuring a Timely and Fair Expedited Removal Process,* 86 FR 8267, 8270–71 (Feb. 2, 2021).

[5] *See generally* Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100–20, 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994).

[6] *See infra* note 24.

242(a)(2)(A)(iii), (e)(2), 8 U.S.C. 1252(a)(2)(A)(iii), (e)(2).

Noncitizens placed into expedited removal and determined to have a credible fear of persecution or torture by an asylum officer or an IJ must be referred for ''further consideration of the application for asylum.'' INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii). The INA is silent as to the procedures by which this ''further consideration'' should occur. Under regulations in place before December 2020,[7] such individuals are currently referred to IJs for removal proceedings under section 240 of the INA, 8 U.S.C. 1229a, (''section 240 removal proceedings'') and its implementing regulations, 8 CFR 208.30(f), 235.6(a)(1)(ii)–(iii), 1208.30(g)(2)(iv)(B). In those proceedings, IJs conduct adversarial hearings to determine removability and adjudicate applications for asylum, withholding or deferral of removal, and any other forms of relief or protection.

The process put into place in 1997, under which noncitizens who establish credible fear generally must have their asylum claims decided through an adversarial removal proceeding before an IJ, is no longer fit for its intended purpose. It does not adequately address the need to adjudicate in a timely manner the rapidly increasing number of asylum claims raised by individuals arriving in the United States.

This system was designed at a time when the vast majority of southwest border encounters involved single adults from Mexico and relatively few asylum claims were filed. This system has proven unable to manage the increasing numbers and changing demographics of noncitizens[8] with asylum claims arriving in recent years at the southwest border. Since the mid-2010s, the demographic characteristics of noncitizens encountered at the border with Mexico have been utterly transformed from being dominated by Mexican nationals to consisting mainly of nationals from the Northern Triangle countries of Central America (El Salvador, Guatemala, and Honduras) along with other Western Hemisphere states; from consisting almost entirely of adults traveling without children to including large numbers of families and unaccompanied children; and from including very few asylum seekers to asylum seekers making up a large share of southwest border encounters.[9] As a result, even as overall encounters at the southwest border have been lower in recent years than in the 1990s and 2000s, the demands on the U.S. asylum system have increased sharply.

Recent demographic changes in southwest border encounters have been dramatic. As recently as 2009, Mexican nationals accounted for 92 percent of southwest border apprehensions.[10] Their share fell below 50 percent for the first time ever in 2014, remained below 50 percent between 2016 and 2019, and fell to an all-time low of 20 percent in 2019, the last full year before the COVID–19 pandemic disrupted ongoing migration trends.[11] Single adults accounted for about 89 percent of southwest border encounters in 2013—a number that was likely near an all-time low at the time—and fell to just 38 percent in 2019.[12] Over much of this period, U.S. Border Patrol (''USBP'') agents have apprehended an increasing number of families and children from Northern Triangle countries. Individuals from Northern Triangle countries accounted for 71 percent of USBP apprehensions in 2019, a record high, and families from all countries accounted for 56 percent of the total, also an all-time high.[13]

These demographic changes have coincided with—and contributed to the reversal of—what had been a long-term trend in declining border encounters. Moreover, as the population of individuals encountered at or near the southwest border has changed, the number of people making fear claims after being placed in expedited removal has increased sharply. Southwest border apprehensions by the U.S. Border Patrol fell from over 1.6 million in 2000 to under 330,000 in 2011 before rising back to over 850,000 in 2019.[14] During the same period, however, credible fear referrals to USCIS initially decreased from just over 10,000 in 2000, to just under 5000 in 2008, before increasing back over 11,000 in 2011, to over 105,000 in 2019.[15] Thus, even as overall border encounters fell 48 percent between 2000 and 2019, the number of individuals making fear claims increased over 900 percent. These changing demographics have had an equally dramatic impact on the immigration courts responsible for determining removability. EOIR now faces a pending caseload of approximately 1.3 million cases,[16] with approximately 610,000 pending asylum applications.[17] While the corps of IJs has more than doubled since 2014, going from 249 at the end of FY 2014 to 539 as of April 2021,[18] the number of pending cases has more than tripled in that same period, growing by nearly 500,000 cases since the end of Fiscal Year (''FY'') 2018.[19] This surge in

[7] See *infra* note 24 discussing recent regulations and their current status. The final rule entitled Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review, 85 FR 80274, 80276 (Dec. 11, 2020) (''Global Asylum'' rule), revised the process used to hear the asylum claim, placing noncitizens into asylum/withholding-only proceedings instead of removal proceedings under section 240 of the INA.

[8] For purposes of this discussion, the Departments use the term ''noncitizen'' synonymously with the term ''alien'' in the INA. *See* INA 101(a)(3), 8 U.S.C. 1101(a)(3).

[9] Office of Immigration Statistics, *Fiscal Year 2020 Enforcement Lifecycle Report* 1, Dep't of Homeland Security (Dec. 2020) (''OIS FY 2020 Lifecycle Report''), *https://www.dhs.gov/sites/default/files/publications/immigration-statistics/Special_Reports/Enforcement_Lifecycle/2020_enforcement_lifecycle_report.pdf.*

[10] Dep't of Homeland Security, *Fiscal Year 2019 Border Security Metrics Report* 52 (Aug. 5, 2020), *https://www.dhs.gov/sites/default/files/publications/immigration-statistics/BSMR/ndaa_border_security_metrics_report_fy_2019_0.pdf.*pdf.

[11] U.S. Customs and Border Protection, *Southwest Land Border Encounters, https://www.cbp.gov/newsroom/stats/*southwest-land-border-encounters (last visited Aug. 4, 2021); *see also* OIS FY 2020 Lifecycle Report, *supra* note 9, at 7. Mexico's share of southwest border encounters returned to 65 percent during the first year of the COVID–19 pandemic, but preliminary data indicate that Mexican nationals accounted for fewer than half of southwest border encounters during the first eight months of Fiscal Year 2021 and only about one-third of unique individuals when controlling for higher than usual repeat encounters due to border COVID–19 protocols.

[12] *Id.* The phenomenon of families being encountered at the border was sufficiently rare that U.S. Border Patrol only began recording data on family unit apprehensions in 2013, and the Office of Field Operations did so beginning in 2016.

[13] Mike Guo, *Immigration Enforcement Actions: 2019* at 4, Dep't of Homeland Security (Sept. 2020), *https://www.dhs.gov/sites/default/files/publications/immigration-statistics/yearbook/2019/enforcement_actions_2019.pdf.*

[14] United States Border Patrol, *Southwest Border Sectors, Total Illegal Alien Apprehensions by Fiscal Year, https://www.cbp.gov/sites/default/files/assets/documents/2020-Jan/U.S.%20Border%20Patrol%20Fiscal%20Year%20Southwest%20Border%20Sector%20Apprehensions%20%28FY%201960%20-%20FY%202019%29_0.pdf* (last visited Aug. 4, 2021).

[15] Bruno, Andorra, *Immigration: U.S. Asylum Policy* (CRS Report No. R45539), at 37 (Feb. 19, 2019) (data through 2018), *https://crsreports.congress.gov/product/pdf/R/R45539; see also* U.S. Citizenship and Immigration Services, *Credible Fear Workload Report Summary—FY2019 Total Caseload* (2019 data), *https://www.uscis.gov/sites/default/files/document/data/Credible_Fear_Stats_FY19.pdf* (last visited Aug. 4, 2021).

[16] EOIR, *Executive Office for Immigration Review Adjudication Statistics: Pending Cases, New Cases, and Total Completions* (Apr. 19, 2021), *https://www.justice.gov/eoir/page/file/1242166/download.*

[17] EOIR, *Executive Office for Immigration Review Adjudication Statistics: Total Asylum Applications* (Apr. 19, 2021), *https://www.justice.gov/eoir/page/file/1106366/download.*

[18] EOIR, *Executive Office for Immigration Review Adjudication Statistics: Immigration Judge (IJ) Hiring* (Apr. 2021), *https://www.justice.gov/eoir/page/file/1242156/download.*

[19] EOIR, *Executive Office for Immigration Review Adjudication Statistics: Pending Cases, New Cases, and Total Completions* (Apr. 19, 2021), *https://www.justice.gov/eoir/page/file/1242166/download.*

pending and new cases, along with the temporary, partial closure of the immigration courts to in-person hearings in 2020 and 2021 because of the COVID–19 pandemic, has resulted in significantly increased adjudication times. While the median completion time for cases involving individuals who are detained through the 2nd quarter of FY 2021 was 43 days, for non-detained individuals in removal proceedings, including arriving asylum seekers initially screened into expedited removal who establish a credible fear of persecution, the recent average case completion time in immigration court has been 3.75 years.[20] Most asylum seekers arriving at the southwest border in recent years must therefore often wait several years to have their claims adjudicated in removal proceedings under section 240 of the Act, 8 U.S.C. 1229a. Absent changes to the current system, the continuing arrival of large numbers of noncitizens at the southwest border with protection claims is likely to lengthen adjudication times further.

In 2020 and 2021, the situation at the southwest border was complicated further by the COVID–19 pandemic. Pursuant to sections 362 and 365 of the Public Health Service Act, Public Law 78–410, 58 Stat. 682 (1944), 42 U.S.C. 265 and 268 (''Title 42''), the Centers for Disease Control and Prevention (''CDC'') determined in March 2020 that it was necessary to prohibit the introduction of certain persons from Mexico and Canada to protect the public health by preventing the further introduction of the virus that causes COVID–19 into the United States.[21] To mitigate the risks presented by COVID–19, the CDC Order requires returning all covered noncitizens as rapidly as possible—and with the least amount of time spent in congregate settings as is feasible—to the country from which they entered the United States, to their country of origin, or to another location as practicable and appropriate.[22] Covered noncitizens are those persons traveling from Canada or Mexico (regardless of their country of origin) who otherwise would be introduced into a congregate setting in a land (and, as amended, coastal) port of entry or USBP station at or near the U.S. borders with Canada and Mexico. The CDC Order does not apply to, among others, U.S. citizens, lawful permanent residents, and those who arrive at a port of entry with valid travel documents.[23]

Border encounters in FY 2021 remain high. To date, the data does suggest that single adults make up a greater percentage of apprehensions than in FY 2019 and, controlling for repeat encounters, the actual number of unique encounters (the number of unique individuals encountered irrespective of potential repeated attempts to enter) has been lower to date in FY 2021 than in FY 2019 (given the continuing use of Title 42 authority to expel many adults and families soon after they are apprehended). But *total* encounters at or near the southwest border through April for FY 2021 has surpassed the FY 2019 highs over the same period. The high number of southwest border apprehensions is presenting serious challenges for an already overwhelmed U.S. asylum system at the border.

A. Improving the Expedited Removal Process

The principal purpose of this proposed rule is to simultaneously increase both the efficiency and the procedural fairness of the expedited removal process for individuals who have been found to have a credible fear of persecution or torture. When individuals who have been placed into the expedited removal process make a fear claim, they are referred to a USCIS asylum officer, who interviews them to determine whether they have a credible fear of persecution or torture. *See* INA 235(b)(1)(A)(ii), 8 U.S.C. 1225(b)(1)(A)(ii). Under current procedures, individuals who receive a positive credible fear determination are referred to an immigration court for removal proceedings, in the course of which they have the opportunity to apply for asylum and other forms of relief or protection from removal. *See* 8 CFR 208.30(f) (2018) (providing that if a noncitizen, other than a stowaway, ''is found to have a credible fear of persecution or torture, the asylum officer will so inform the [noncitizen] and issue a Form I–862, Notice to Appear, for full consideration of the asylum and withholding of removal claim in proceedings under section 240 of the Act''). As explained above, it may take years before the individual's protection claim is first adjudicated by an IJ. The ability to stay in the United States for years waiting for an initial decision may motivate unauthorized border crossings by individuals who otherwise would not have sought to enter the United States and who lack a meritorious protection claim. This delay creates additional stress for those ultimately determined to merit asylum and other forms of humanitarian protection, as they are left in limbo as to whether they might still be removed and unable to petition for qualified family members, some of whom may still be at risk of harm.

To respond to this problem, this rule proposes at 8 CFR 208.2(a)(1)(ii) and 208.9 to provide USCIS asylum officers the authority to adjudicate in the first instance the protection claims of individuals who receive a positive credible fear determination, and that they do so in a nonadversarial hearing. The rule also proposes at 8 CFR 208.3(a)(2) that the record of a credible fear interview may serve as an asylum application for those noncitizens whose cases are retained by or referred to USCIS for adjudication after a positive credible fear determination, thereby helping to ensure that asylum seekers meet the statutory requirement to apply for asylum within one year of arrival. These steps are meant to ensure greater efficiency in the system, which was initially designed for protection claims to be the exception, not the rule, among those encountered at or near the border. The proposed rule will also stem the rapid growth of the EOIR caseload, described in greater detail above.

As noted earlier, the current system for processing protection claims made by individuals encountered at or near the border and who establish credible fear was originally adopted in 1997. Within the last 3 years, however, several attempts have been made to issue new rules to change the credible fear screening process. Many of these attempts have been vacated or enjoined, and the implementation of others has been delayed pending consideration of whether they should be revised or rescinded.[24]

[20] According to a review of data collected as part of the FY 2020 Lifecycle Report by DHS OIS, 39% of cases of noncitizens encountered at the southwest border in 2013 through 2019 who made fear claims remain in EOIR proceedings as of this date. As those cases are eventually completed, the median and average completion time for cases could be further impacted.

[21] *See Order Suspending the Right to Introduce Certain Persons from Countries Where a Quarantinable Communicable Disease Exists,* 85 FR 65806, 65807 (Oct. 16, 2020) (''CDC Order'' or ''Title 42 order'') (extending March 20, 2020 order, 85 FR 16559).

[22] *Id.* at 65812.

[23] *Id.* at 65808.

[24] On November 9, 2018, the Departments issued an interim final rule (''IFR'') that barred noncitizens who entered the United States in contravention of a covered Presidential proclamation or order from eligibility for asylum, required that they receive a negative credible fear finding on their asylum claims, and required that their statutory withholding and CAT claims be considered under the higher reasonable fear screening standard. *See* Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims, 83 FR 55934, 55939, 55943 (Nov. 9, 2018). A month later, the U.S. District Court for the Northern District of California preliminarily enjoined the Departments from implementing the rule, *E. Bay Sanctuary Covenant* v. *Trump,* 354 F.

Continued

This proposed rule offers another approach. It would establish a streamlined and simplified adjudication process for individuals encountered at or near the border, placed into expedited removal, and determined to have a credible fear of persecution or torture, with the aim of deciding protection claims in a more timely fashion while ensuring procedural protections against erroneous denials of relief.[25] The proposed rule would authorize USCIS asylum officers to adjudicate in the first instance the protection claims of individuals who receive positive credible fear determinations under the expedited removal framework in section 235(b)(1) of the INA, 8 U.S.C. 1225(b)(1). The procedures that USCIS asylum officers would use to adjudicate these claims would be nonadversarial, and the decisions would be made within timeframes more in line with those established by Congress in section 208(d)(5) of the INA.[26]

To ensure effective implementation of the expedited removal system, this rule also proposes to revise the parole considerations prior to a positive credible fear determination in 8 CFR 235.3. The current rule limits parole consideration before the credible fear determination to situations in which parole ''is required to meet a medical emergency or is necessary for a legitimate law enforcement objective.'' 8 CFR 235.3(b)(2)(iii), (b)(4)(ii). Under this proposed rule, DHS also would be able to consider whether parole is required ''because detention is unavailable or impracticable.'' The current narrower parole standards effectively prevent DHS from placing into expedited removal many noncitizens who would otherwise be eligible for this process, especially families, given the requirements of the Flores Settlement Agreement (''FSA'').[27] These restrictions on DHS's ability to detain families, coupled with capacity constraints imposed by the COVID–19 pandemic, have effectively prevented the Government from using the third option to detain families subject to expedited removal for more than a very limited number of families and for more than a very limited period of time. This proposed rule would, when finalized, eliminate that barrier to placing families into expedited removal. The proposed parole provision would allow more noncitizens arriving at the U.S. border without proper documents for entry into the country to be placed into expedited removal and allow for them to have their fear claims heard and considered outside the detention setting when space is unavailable or impracticable to use.

This proposed rule would apply prospectively and only to adults and families who are placed into expedited removal.[28] The proposed rule would not apply to unaccompanied children, *see* 6 U.S.C. 279(g)(2) (defining ''unaccompanied alien child''), as they are statutorily exempt from expedited removal proceedings. 8 U.S.C. 1232(a)(5)(D)(i) (providing that ''any unaccompanied alien child'' ''shall be—(i) placed in removal proceedings under section 240'' of the INA).[29] The

Supp. 3d 1094, 1121 (N.D. Cal. 2018), and the Ninth Circuit affirmed, *E. Bay Sanctuary Covenant* v. *Biden,* 993 F.3d 640, 680 (9th Cir. 2021).

On July 16, 2019, the Departments published another IFR, entitled Asylum Eligibility and Procedural Modifications, 84 FR 33829 (July 16, 2019), which generally barred noncitizens from asylum eligibility if they entered or attempted to enter the United States across the southwest border after failing to apply for protection from persecution or torture while in any one of the third countries through which they transited, required a negative credible fear finding for such noncitizens' asylum claims, and required their withholding and CAT claims be considered under the higher reasonable fear screening standard. *Id.* at 33837–38. The U.S. District Court for the District of Columbia vacated that IFR after concluding that the Departments violated the Administrative Procedure Act by forgoing notice-and-comment rulemaking. *Capital Area Immigrants' Rights Coal.* v. *Trump,* 471 F. Supp. 3d 25, 45–57 (D.D.C. 2020). The Departments issued a final rule on December 17, 2020, entitled Asylum Eligibility and Procedural Modifications, 85 FR 82260 (Dec. 17, 2020), which again attempted to bar from asylum eligibility those noncitizens who transited a third country before arriving at the border. The U.S. District Court for the Northern District of California subsequently issued a preliminary injunction against implementation of that rule, which remains in place as of this writing. *E. Bay Sanctuary Covenant* v. *Barr,* No. 19–cv–04073–JST, 2021 WL 607869, at *5 (N.D. Cal. Feb. 16, 2021).

Around the same time, the Departments also issued the final rule entitled Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review, 85 FR 80274 (Dec. 11, 2020) (''Global Asylum'' rule). That rule revised the credible fear screening process to require that all the mandatory bars to asylum and withholding be considered during the credible fear screening process and established a new screening standard for withholding of removal and CAT protection. On January 8, 2021, the U.S. District Court for the Northern District of California preliminarily enjoined the Departments from implementing the rule. *Pangea Legal Servs.* v. *DHS,* No. 20–cv–09253 JD, 2021 WL 75756, at *7 (N.D. Cal. Jan. 8, 2021). That preliminary injunction remains in place.

Finally, the Departments also published a final rule entitled Security Bars and Processing, 85 FR 84160 (Dec. 23, 2020) (''Security Bars'' rule), which added an additional bar to asylum and withholding that would be applied to the credible fear screening process. The Departments have delayed the rule's effective date to December 31, 2021, *see* Security Bars and Processing; Delay of Effective Date, 86 FR 15069 (Mar. 22, 2021), as the Departments consider possible action to rescind or revise the rule.

[25] Section 4(b)(i) of E.O. 14010 instructed the Secretary of Homeland Security to review the procedures for individuals placed into expedited removal at or near the border and issue a report with recommendations ''for creating a more efficient and orderly process that facilitates timely adjudications [of asylum/protection claims] and adherence to standards of fairness and due process.'' 86 FR at 8270.

[26] *See* INA 208(d)(5), 8 U.S.C. 1158(d)(5) (specifying that an initial hearing on an asylum application should generally occur within 45 days after the filing of the application and that an initial administrative decision should generally be made within 180 days).

[27] In 1985, a class-action suit challenged the policies of the former INS relating to the detention, processing, and release of alien children; the case eventually reached the U.S. Supreme Court. The Court upheld the constitutionality of the challenged INS regulations on their face and remanded the case for further proceedings consistent with its opinion. *See Reno* v. *Flores,* 507 U.S. 292, 315 (1993). In January 1997, the parties reached a comprehensive settlement agreement, referred to as the Flores Settlement Agreement. *See Flores* v. *Rosen,* 984 F.3d 720, 727 (9th Cir. 2020) (describing litigation history). The FSA was to terminate 5 years after the date of final court approval; however, the termination provisions were modified in 2001, such that the FSA does not terminate until 45 days after publication of regulations implementing the agreement. *Id.* In August 2019, DHS and HHS jointly issued a final rule entitled Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children, 84 FR 44392 (Aug. 23, 2019). In September 2019, about a month before the Final Rule was to take effect, a Federal district court granted the plaintiff class's motion to enforce the FSA and denied the government's motion to terminate it, because the final rule was inconsistent with the FSA and thus did not ''implement[ ]'' it as required by the FSA's termination provisions. *See Flores* v. *Barr,* 407 F. Supp. 3d 909, 914 (C.D. Cal. 2019). The Ninth Circuit affirmed in part, and the provisions of the FSA that are relevant here thus generally remain in effect. *See Flores* v. *Rosen,* 984 F.3d at 737, 744. Under the requirements of the FSA, when DHS apprehends an alien parent or legal guardian with their child(ren) either illegally entering the United States between the ports of entry or found inadmissible at a port of entry, it has, following initiation of removal proceedings, three primary options for purposes of immigration custody: (1) Parole all family members into the United States; (2) detain the parent(s) or legal guardian(s) and either release the juvenile to another parent or legal guardian or transfer them to HHS to be treated as an unaccompanied child; or (3) detain family members together by placing them at an appropriate DHS Family Residential Center (''FRC'') during their immigration proceedings. *See, e.g., id.* at 737–38 (discussing ''transfer of unaccompanied minors from DHS to HHS,'' ''DHS custodial care immediately following apprehension,'' and parole).

[28] According to EOIR data, as of April 2021, over 220,000 of EOIR's pending removal cases originated with a credible fear claim. EOIR, *Executive Office for Immigration Review Adjudication Statistics:* Pending I–862 Proceedings Originating With a Credible Fear Claim and All Pending I–862s (Apr. 19, 2021), *https://www.justice.gov/eoir/page/file/1112996/download.* These cases are in various stages of the removal process, and hearings may have already been scheduled or held. Moving these cases to a new process at this stage would risk further delaying adjudication of their protection claims and create an immediate backlog of tens of thousands of cases for USCIS as it prepares to implement this proposed process for future border arrivals.

[29] The statute provides that any unaccompanied child whom DHS seeks to remove shall be placed in removal proceedings under section 240 of the INA. In lieu of being placed in removal proceedings, unaccompanied children from contiguous countries who meet special criteria may be permitted to withdraw their applications for

proposed rule also would not apply to individuals already residing in the United States who are not designated by the Secretary as subject to expedited removal.[30] Such individuals would continue to have their asylum claims heard in removal proceedings under section 240 of the INA, or through an affirmative asylum application under section 208 of the INA if they have not yet been placed into removal proceedings. The proposed rule also would not apply to (1) stowaways or (2) noncitizens who are present in or arriving in the Commonwealth of the Northern Mariana Islands who are determined to have a credible fear. Such individuals would continue to be referred to asylum/withholding-only proceedings before an IJ under 8 CFR 208.2(c).

Finally, the Departments clarify that nothing in this proposed rule, if finalized, is intended to displace DHS's (and, in particular, USCIS's) prosecutorial discretion to place a covered noncitizen in, or to withdraw a covered noncitizen from, expedited removal proceedings and issue a Notice to Appear (''NTA'') to place the noncitizen in section 240 removal proceedings at any time after they are referred to USCIS for a credible fear determination. *See Matter of E-R-M- & L-R-M-,* 25 I&N Dec. 520, 523 (BIA 2011).

The credible fear screening regulations proposed under this rule generally would recodify the current screening process, returning the regulatory language, in large part, to what was in place prior to the various regulatory changes made from the end of 2018 through the end of 2020. Noncitizens encountered at or near the border or ports of entry can be placed into expedited removal and provided a credible fear screening if they indicate an intention to apply for asylum, a fear of persecution or torture, or a fear of return to their home countries. *See* INA 235(b)(1)(A)(ii), (B), 8 U.S.C. 1225(b)(1)(A)(ii), (B); 8 CFR 235.3(b)(4), 1235.3(b)(4)(i). Individuals claiming a fear or an intention to apply for protection are referred to USCIS asylum officers for an interview and consideration of their fear claims under the credible fear screening standard, which applies to all relevant protection claims. If an asylum officer determines that an individual does not have a credible fear of persecution or torture, the individual can request that an IJ review the asylum officer's negative credible fear determination. *See* INA 235(b)(1)(B)(iii)(III), 8 U.S.C. 1225(b)(1)(B)(iii)(III); 8 CFR 208.30(g), 1208.30(g). If the IJ concurs with the asylum officer's negative credible fear determination, no administrative appeal is available, 8 CFR 1208.30(g)(2)(iv)(A), and DHS can execute the individual's expedited removal order, promptly removing the individual from the United States.

If the noncitizen is found to have a credible fear, however, the proposed rule would change the procedures in place prior to this rulemaking that are described above. Under this proposed rule, rather than referring the individual to an IJ for an adversarial removal proceeding under section 240 of the INA, or, as provided for in a presently-enjoined regulation, an asylum/withholding-only hearing, the individual's asylum application instead could be retained by USCIS for a nonadversarial hearing before an asylum officer. *See* 8 CFR 208.30(f) (proposed). Similarly, if, upon review of an asylum officer's negative credible fear determination, an IJ finds that an individual does have a credible fear of persecution or torture, the individual also could be referred back to an asylum officer for proceedings on the individual's protection claims. *Id.* §§ 1003.42, 1208.30(g). The Departments plan to implement these procedures by having asylum hearings conducted for those individuals who are referred to or retained by USCIS after the positive credible fear determination would be adjudicated in a separate queue, apart from adjudications made with respect to affirmative asylum applications filed directly with USCIS. The individual would have the right to representation during this proceeding. *Id.* § 208.9(b). If, at the conclusion of an asylum hearing described in this proposed rule, the asylum officer grants asylum, the individual would be allowed to remain in the United States indefinitely with the status of ''asylee'' and eventually may apply for lawful permanent residence. *Id.; see also* INA 208(c)(1), 209(b), 8 U.S.C. 1158(c)(1), 1159(b). If the asylum officer denies asylum and orders the individual removed based on the immigration officer's initial inadmissibility determination under section 235(b)(1)(A)(i) of the INA, 8 U.S.C. 1225(b)(1)(A)(i), the asylum officer will also issue a decision regarding withholding or deferral of removal. 8 CFR 208.14(c)(5) (proposed). An individual who is denied asylum may request review by an IJ of the asylum decision, as well as any denial of withholding or deferral of removal. *Id.* §§ 208.14(c)(5)(i), 1003.48(a).

In cases in which a noncitizen seeks review of an asylum officer's adverse decision, the Departments propose that the IJ would make an independent de novo determination based on the record of the hearing before the Asylum Office plus any additional, non-duplicative evidence presented to the court that is necessary to reach a reasoned decision. *Id.* § 1003.48(e) (proposed). The individual would also have the right, consistent with the INA, to representation during this review. *See* 8 CFR 1003.12 (proposed) (providing that the rules in this subpart apply to the proposed proceedings under 8 CFR 1003.48); 8 CFR 1003.16(b) (providing that a noncitizen ''may be represented in proceedings before an Immigration Judge by an attorney or other representative''). The IJ also would be authorized to vacate proceedings when the judge finds the individual is prima facie eligible for other forms of relief from removal, so that DHS, in the exercise of DHS's discretion, could place the noncitizen into removal proceedings under section 240 of the INA, 8 U.S.C. 1229a. *See* 8 CFR 1003.48(d) (proposed).

Finally, the rule proposes that both parties would be able to appeal the IJ's decision to the BIA under procedures similar to those used in section 240 removal proceedings and asylum/withholding-only proceedings under 8 CFR 208.2(c), 1208.2(c). *See* 8 CFR 1003.1(b)(15) (proposed). In addition, the individual would be able to petition for review of the BIA decision with the Federal courts. *See infra* note 59.

B. DOJ and DHS Authority To Propose This Rule

The Attorney General and the Secretary jointly propose this rule pursuant to their respective authorities concerning asylum determinations. The Homeland Security Act of 2002 (''HSA''), Public Law 107–296, 116 Stat. 2135, as amended, created DHS and transferred to it many functions related to the execution of Federal immigration law. The HSA charged the Secretary ''with the administration and enforcement of this chapter and all other laws relating to the immigration and naturalization of aliens,'' INA 103(a)(1), 8 U.S.C. 1103(a)(1), and granted the power to take all actions ''necessary for carrying out'' the Secretary's authority under the immigration laws, INA 103(a)(3), 8 U.S.C. 1103(a)(3). The Secretary's authority also includes the authority to

admission and be voluntarily returned to their country of nationality or country of last habitual residence. Actual removal proceedings for unaccompanied children, whether from contiguous countries or not, however, must be under section 240 of the INA.

[30] *See supra* note 4.

publish regulatory amendments governing the apprehension, inspection and admission, detention and removal, withholding of removal, and release of noncitizens encountered in the interior of the United States or at or between the U.S. ports of entry. INA 235, 236, 241, 8 U.S.C. 1225, 1226, 1231.

The HSA thus transferred to DHS authority to adjudicate asylum applications, as well as the authority to conduct credible fear interviews and make credible fear determinations in the context of expedited removal. INA 235(b)(1)(B), 8 U.S.C. 1225(b)(1)(B); *see also* HSA 451(b), 6 U.S.C. 271(b) (providing for the transfer of adjudication of asylum and refugee applications from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services, now USCIS). By operation of the HSA, the reference to ''Attorney General'' in the INA is understood also to encompass the Secretary in matters with respect to immigration proceedings before DHS. That authority has been delegated within DHS to the Director of USCIS. *See* 8 CFR 208.2(a), 208.30.

In addition, under the HSA, the Attorney General retained authority over individual immigration adjudications (including section 240 removal proceedings and certain adjudications related to asylum applications) conducted within EOIR. *See* HSA 1101(a), 6 U.S.C. 521(a); INA 103(g), 8 U.S.C. 1103(g). IJs within DOJ continue to adjudicate all asylum applications filed by noncitizens during the pendency of removal proceedings, and they also review asylum applications referred by USCIS to the immigration court. *See* INA 101(b)(4), 240(a)(1), 8 U.S.C. 1101(b)(4), 1229a(a)(1); 8 CFR 1208.2(b), 1240.1(a).

Section 235(b)(1)(B)(ii) of the INA, 8 U.S.C. 1225(b)(1)(B)(ii), provides that if a noncitizen in expedited removal proceedings is determined to have a credible fear of persecution by an asylum officer, the noncitizen is entitled to ''further consideration of the application for asylum.'' This proposed rule addresses how that further consideration will occur. Section 208(d)(1) of the INA, 8 U.S.C. 1158(d)(1), provides the Attorney General with the authority to establish procedures for the consideration of asylum applications, including those filed in accordance with section 235(b) of the INA, 8 U.S.C. 1225(b). *See* INA 208(a), 8 U.S.C. 1158(a).

Section 103(a)(1) and (3) of the INA, 8 U.S.C. 1103(a)(1), (3), authorizes the Secretary to establish rules and regulations governing parole. Section 212(d)(5) of the INA, 8 U.S.C. 1182(d)(5), vests in the Secretary the discretionary authority to grant parole to applicants for admission on a case-by-case basis.

C. The Current Asylum and Expedited Removal Process

1. Asylum

The Refugee Act of 1980, Public Law 96–212, 94 Stat. 102, was the first comprehensive legislation to establish the modern refugee and asylum system in the United States. Asylum is a discretionary benefit that can be granted by the Attorney General or the Secretary if a noncitizen establishes, among other things, that they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. INA 208(b)(1), 8 U.S.C. 1158(b)(1) (providing that the Attorney General ''may'' grant asylum to refugees); INA 101(a)(42)(A), 8 U.S.C. 1101(a)(42)(A) (defining ''refugee''). As long as they retain their asylee status, noncitizens who are granted asylum (1) cannot be removed or returned to their country of nationality or last habitual residence, (2) receive employment authorization incident to their status, and (3) may be permitted to apply for readmission after travel outside of the United States with prior consent from the Secretary. INA 208(c)(1), 8 U.S.C. 1158(c)(1); *see Johnson* v. *Guzman Chavez,* 141 S. Ct. 2271, 2286 (2021) (''[A] grant of asylum permits an alien to remain in the United States and to apply for permanent residency after one year[.]'' (internal quotation marks and citation omitted) (emphases omitted)); 8 CFR 274a.12(a)(5) (employment authorization incident to asylum status); *id.* § 223.1(b) (readmission after travel for a ''person who holds . . . asylum status pursuant to section 208 of the Act'').

Asylum applications are presently classified based on the agency with jurisdiction over the noncitizen's case. If a noncitizen is physically present in the United States, not detained, and not in removal proceedings, the noncitizen may file an asylum application with USCIS. These applications are known as ''affirmative'' filings. If the noncitizen is in removal proceedings before an IJ, the noncitizen instead may file an application for asylum with the IJ as a defense to removal. Such ''defensive'' filings are currently the only route by which noncitizens referred to an IJ by a USCIS asylum officer after receiving a positive credible fear determination can obtain an adjudication of the merits of their asylum claims.

Noncitizens who are ineligible for a grant of asylum, or who are denied asylum based on the Attorney General's or the Secretary's discretion, nonetheless may qualify for other forms of protection. An application for asylum submitted by a noncitizen in removal proceedings is also considered an application for statutory withholding of removal under section 241(b)(3) of the INA, 8 U.S.C. 1231(b)(3). *See* 8 CFR 1208.3(b), 1208.13(c)(1). An IJ also may consider a noncitizen's eligibility for withholding and deferral of removal under regulations issued pursuant to the implementing legislation regarding U.S. obligations under Article 3 of the CAT. Foreign Affairs Reform and Restructuring Act of 1998, Public Law 105–277, div. G, sec. 2242(b), 112 Stat. 2681–761, 2681–822 (codified at 8 U.S.C. 1231 note (1999)); 8 CFR 1208.3(b), 1208.13(c)(1); *see also id.* §§ 1208.16(c), 1208.17.

Withholding and deferral of removal bar a noncitizen's removal to any country where the noncitizen would ''more likely than not'' face persecution or torture, meaning that the noncitizen would face a clear probability that their life or freedom would be threatened because of a protected ground or a clear probability of torture. 8 CFR 1208.16(b)(2), (c)(2). Thus, if a noncitizen proves that it is more likely than not that the noncitizen's life or freedom would be threatened on account of a protected ground, but is denied asylum for some other reason—for instance, because of a statutory exception, an eligibility bar adopted by regulation, or a discretionary denial of asylum—the noncitizen nonetheless may be entitled to statutory withholding of removal if not otherwise barred from that form of protection. INA 241(b)(3)(A), 8 U.S.C. 1231(b)(3)(A); 8 CFR 208.16, 1208.16. Likewise, a noncitizen who establishes that he or she more likely than not will face torture in the country of removal will qualify for CAT protection. *See* 8 CFR 208.16(c), 208.17(a), 1208.16(c), 1208.17(a). In contrast to the more generous benefits available through asylum, statutory withholding and CAT protection do not: (1) Prohibit the Government from removing the noncitizen to a third country where the noncitizen would not face the requisite likelihood of persecution or torture (even in the absence of an agreement with that third country); (2) create a path to lawful permanent resident status; or (3) afford the same ancillary benefits, such as derivative protection for family members. *See, e.g., Guzman*

Chavez, 141 S. Ct. at 2286 (''distinguish[ing] withholding-only relief from asylum'' on the ground that withholding does not preclude the Government from removing the noncitizen to a third country and does not provide the noncitizen any permanent right to remain in the United States); *Matter of A–K–,* 24 I&N Dec. 275, 279 (BIA 2007) (stating that ''the Act does not permit derivative withholding of removal under any circumstances''); INA 208(b)(3)(A), 8 U.S.C. 1158(b)(3)(A) (statutory provision allowing asylum status to be granted to accompanying or following-to-join spouse or children of a noncitizen granted asylum; no equivalent statutory or regulatory provision for individuals granted withholding or deferral of removal).

2. Expedited Removal and Screenings in the Credible Fear Process

In the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (''IIRIRA''), Public Law 104–208, div. C, 110 Stat. 3009, 3009–546, Congress established the expedited removal process. The process is applicable to noncitizens arriving in the United States (and, in the discretion of the Secretary, certain other designated classes of noncitizens) who are found to be inadmissible under either section 212(a)(6)(C) of the INA, 8 U.S.C. 1182(a)(6)(C), regarding material misrepresentations, or section 212(a)(7) of the INA, 8 U.S.C. 1182(a)(7), regarding documentation requirements for admission. Under expedited removal, such noncitizens may be ''removed from the United States without further hearing or review unless the [noncitizen] indicates either an intention to apply for asylum under section 1158 of this title or a fear of persecution.'' INA 235(b)(1)(A)(i), 8 U.S.C. 1225(b)(1)(A)(i).

The former INS and, later, DHS implemented a screening process, known as the ''credible fear'' screening, to identify potentially valid claims for asylum, statutory withholding of removal, and CAT protection, or, more specifically, to prevent noncitizens placed in expedited removal from being removed to a country in which they would face persecution or torture. Currently, with regulatory changes made from 2018 through 2020 either vacated, enjoined, or delayed, any noncitizen who expresses a fear of persecution or torture, a fear of return, or an intention to apply for asylum during the course of the expedited removal process is referred to a USCIS asylum officer for an interview to determine whether the noncitizen has a credible fear of persecution or torture in the country of return. INA 235(b)(1)(A)(ii), (B), 8 U.S.C. 1225(b)(1)(A)(ii), (B); *see also* 8 CFR 235.3(b)(4), 1235.3(b)(4)(i). If the asylum officer determines that the noncitizen does not have a credible fear of persecution or torture, the noncitizen may request that an IJ review that determination. *See* INA 235(b)(1)(B)(iii)(III), 8 U.S.C. 1225(b)(1)(B)(iii)(III); 8 CFR 208.30(g), 1208.30(g).

Under the regulatory framework prior to November 2018 and currently in effect,[31] if the asylum officer determines that a noncitizen subject to expedited removal has a credible fear of persecution or torture, DHS refers the noncitizen to an immigration court for adjudication of the noncitizen's claims by initiating section 240 removal proceedings through service of an NTA on the noncitizen and with the court. *See* 8 CFR 208.30(f), 235.6(a)(1)(ii), 1235.6(a)(1)(ii) (2018). Similarly, if an IJ, upon review of the asylum officer's negative credible fear determination, finds that the noncitizen possesses a credible fear of persecution or torture, the IJ vacates the expedited removal order and DHS initiates section 240 removal proceedings. *See id.* 1208.30(g)(2)(iv)(B). If the noncitizen subsequently decides to file for asylum, the asylum application is filed with the court during the section 240 removal proceedings, is considered a ''defensively filed'' application, and is subject to the one-year filing deadline. *See* INA 208(a)(2)(B), 8 U.S.C. 1158(a)(2)(B). There is no requirement that the noncitizen file an asylum application, however, once placed into section 240 removal proceedings.

III. Discussion of the Proposed Rule

As noted in the summary above, this proposed rule would make several changes to the adjudication process of protection claims presented by noncitizens in expedited removal who both make fear claims and are determined to have a credible fear of persecution or torture. A more detailed explanation of the proposed changes, the reasons for these changes, and their alignment with the relevant statutes, as well as a brief outline of certain other changes proposed by this rule, follows.

A. Parole—Proposed 8 CFR 235.3(b)(2)(iii) and (b)(4)(ii)

The expedited removal statute provides for detention throughout the expedited removal process, including during the credible fear screening process and during the process for further consideration of the protection claims on their merits. The statute does not, however, limit DHS's general parole authority under section 212(d)(5) of the INA, 8 U.S.C. 1182(d)(5), and 8 CFR 212.5(b), and the Departments have not understood the language providing for detention in expedited removal to limit this parole authority. Instead, parole authority in the context of expedited removal has been specifically provided for in the relevant regulations covering expedited removal and the credible fear screening process since they were first implemented in 1997. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR 10312, 10356 (Mar. 6, 1997) (interim final rule). And the U.S. Supreme Court recently acknowledged in *Jennings* v. *Rodriguez,* 138 S. Ct. 830, 837 (2018), that DHS may exercise its authority to temporarily parole persons subject to expedited removal, while also acknowledging that the relevant statutory language in section 235(b)(1) and (b)(2) of the INA, 8 U.S.C. 1225(b)(1), (b)(2), ''unequivocally mandate that aliens falling within their scope 'shall' be detained,'' *id.* at 844.

Since expedited removal's implementation regulations were first promulgated, parole consideration has been limited to a narrow category of circumstances for individuals awaiting a credible fear determination—when necessary ''to meet a medical emergency or . . . for a legitimate law enforcement objective.'' *See* 8 CFR 235.3(b)(2)(iii), (b)(4)(ii) (current). This proposed rule change would add to those grounds, allowing parole when ''detention is unavailable or impracticable (including situations in which continued detention would unduly impact the health or safety of individuals with special vulnerabilities).'' 8 CFR 235.3(b)(2)(iii), (b)(4)(ii) (proposed). This change would allow DHS to prioritize use of its limited detention bed space to detain those noncitizens who pose the greatest threats to national security and public safety, while avoiding unnecessary operational limitations on DHS's authority to place noncitizens into expedited removal. Under the proposed rule, when detention space is unavailable or its use is otherwise impracticable, DHS would have the option of using parole rather than placing nearly all families arriving at the border directly into section 240 removal proceedings. The proposed rule also makes clear that a grant of parole only

[31] *See supra* note 24 (discussing the status of more recent regulatory changes).

authorizes release from custody and cannot serve as an independent basis for employment authorization under 8 CFR 274a.12(c)(11).[32] *See* 8 CFR 235.3(b)(4)(ii) (proposed). The Departments are seeking public comment on this change in the circumstances under which parole may be considered in the expedited removal context, as well as the use of (c)(11) employment authorization documents (''EADs'') for those in expedited removal who have been paroled from custody.

B. Credible Fear Screening Process—Proposed 8 CFR 208.30

As noted earlier, there were several rules published by the Departments from the end of 2018 through the end of 2020 that attempted to change the credible fear screening process that had been in place for approximately 20 years, but these rules are not in effect.[33] The Global Asylum rule, which, as explained above, has been enjoined, attempted to change the pre-2018 practice of not applying the mandatory bars to asylum and statutory withholding in the credible fear screening process, instead requiring a final determination on the applicability of a significantly expanded list of mandatory bars during credible fear screenings and mandating a negative credible fear finding should any of the bars be determined to apply to the noncitizen at that initial stage. 85 FR at 80278. In addition, the Global Asylum rule attempted to alter the longstanding practice for screening claims for statutory withholding of removal and CAT protection. Prior to the rule, the statutory standard for screening asylum claims (*i.e.,* a ''significant possibility'' of establishing eligibility for asylum) was also used to screen withholding of removal and CAT claims. The Global Asylum rule attempted to create a more complicated two-step, two-standard screening by requiring a higher screening standard for such claims (*i.e.,* a ''reasonable possibility'' of persecution or torture). *Id.* The Security Bars rule, issued less than 2 weeks after the Global Asylum rule, further expanded the list of mandatory bars to asylum that would apply in the credible fear screening process, 85 FR at 84160, but its implementation has been delayed until the end of 2021, 86 FR at 15069.

With this proposed rule, the Departments generally seek to return the credible fear screening process regulations to the simpler screening process that was in place for expedited removal's first two decades of implementation. Given the injunctions, delays, and vacaturs referenced above, this rule proposes to recodify in the Code of Federal Regulations the standard of ''significant possibility'' that has remained in effect since the rule changing that standard has been enjoined. *Pangea Legal Servs.* v. *DHS,* No. 20–cv–09253, 2021 WL 75756, at *7 (N.D. Cal. Jan. 8, 2021) (preliminarily enjoining the Global Asylum rule). The Departments believe that this change will make for a more efficient and effective credible fear screening process and is also necessary to make that screening process consistent with congressional intent.

The 104th Congress chose a screening standard ''intended to be a low screening standard for admission into the usual full asylum process.'' [34] Originally, the Senate bill had proposed a ''determination of whether the asylum claim was 'manifestly unfounded,' while the House bill applied a 'significant possibility' standard coupled with an inquiry into whether there was a substantial likelihood that the alien's statements were true.'' [35] In IIRIRA, Congress then ''struck a compromise by rejecting the higher standard of credibility included in the House bill.'' [36] This proposed regulation would now return the screening standard to the ''low screening standard'' intended by the compromise reflected in the text that Congress ultimately passed. Rather than creating a complicated screening process that requires full evidence gathering and determinations to be made on possible bars to eligibility, this proposed rule aims to return to allowing protection claims with a ''significant possibility'' of success to be fully heard and adjudicated, but in a process that more quickly reaches a final decision on the merits than the current process.

To accomplish this, the proposed rule would replace all the references throughout 8 CFR 208.30 to a ''credible fear of persecution, reasonable possibility of persecution, or a reasonable possibility of torture'' with ''credible fear,'' acknowledging that the statutory ''significant possibility'' standard, INA 235(b)(1)(B)(v), 8 U.S.C. 1225(b)(1)(B)(v), would be applied in considering all three types of protection claims—asylum, statutory withholding, and protection under the CAT.[37] Consistent with that change, the proposed rule would revise 8 CFR 208.30 to return the definition of the ''credible fear'' standard to the ''significant possibility'' definition provided in the statute (paragraph (e)(2)), replace the ''reasonable possibility'' standard with the same ''significant possibility'' screening standard for statutory withholding of removal and CAT withholding or deferral of removal (paragraphs (e)(2) and (3)), return the language in the regulation to reflect the existing and two-decade long practice of not applying the mandatory bars to the credible fear screening determination (paragraph (e)(5)),[38] maintain the

[32] As noted elsewhere in this preamble, this proposed rule is not intended to rescind previously enjoined or vacated rules. Accordingly, the Departments are proposing that those in the credible fear process who have been paroled from custody would be ineligible for a (c)(11) employment authorization document (''EAD''), similar to what was implemented with the final rule entitled Asylum Application, Interview, and Employment Authorization for Applicants, 85 FR 38532, 38582 (June 26, 2020). A Federal district court preliminarily enjoined certain provisions of the rule but only as applied to the plaintiffs in that case, and the EAD-parole provision similar to the one proposed here was not challenged in that litigation. *See Casa de Maryland, Inc.* v. *Wolf,* 486 F. Supp. 3d 928, 935 (D. Md. 2020) (''preliminarily enjoin[ing] Defendants from enforcing a subset of the rule changes as applied to the individual members of Plaintiffs Casa de Maryland, Inc. ('CASA') and Asylum Seeker Advocacy Project ('ASAP')''). The Departments are seeking public comment on the use of (c)(11) EADs for those in expedited removal who have been paroled from custody.

[33] *See supra* note 24.

[34] 142 Cong. Rec. S11491 (daily ed. Sept. 27, 1996) (statement of Senate Judiciary Committee Chairman Orrin Hatch).

[35] *Id.* The chairman of the conference committee assigned to reconcile the two bills, Rep. Henry Hyde, stated that ''[t]he credible fear standard is redrafted in the conference document to address fully concerns that the 'more probable than not' language in the original House version was too restrictive.'' 142 Cong. Rec. H11081 (daily ed. Sept. 25, 1996) (statement of House Judiciary Committee Chairman Henry Hyde). The exact language in section 302 of the House bill, H.R. 2202, 104th Cong. (1995), was as follows: ''the term 'credible fear of persecution' means (I) that it is more probable than not that the statements made by the alien in support of the alien's claim are true, and (II) that there is a significant possibility, in light of such statements and of such other facts as are known to the officer, that the alien could establish eligibility for asylum under section 208.'' The conference committee compromise stuck subsection (I) from the definition of credible fear.

[36] 142 Cong. Rec. S11491 (statement of Sen. Hatch).

[37] These proposed changes would not alter reasonable fear of persecution or torture determinations involving noncitizens ordered removed under section 238(b) of the INA, 8 U.S.C. 1228(b), and noncitizens whose removal is reinstated under section 241(a)(5) of the INA, 8 U.S.C. 1251(a)(5), pursuant to 8 CFR 208.31.

[38] This proposed rule does not, and is not intended to, rescind prior rulemakings, including Implementing Bilateral and Multilateral Asylum Cooperative Agreements Under the Immigration and Nationality Act, 84 FR 63994 (Nov. 19, 2019); Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims, 83 FR 55934 (Nov. 9, 2018); and Asylum Eligibility and Procedural Modifications, 85 FR 82260 (Dec. 17, 2020). To that end, the Departments have proposed to change 8 CFR 208.30 only to the extent necessary to implement the changes proposed in this rule and left the remaining provisions of the aforementioned rules to be

threshold screening under the safe third country agreement with Canada (paragraph (e)(6)), and continue to require supervisory review of all credible fear determinations before they can become final (paragraph (e)(8)). The Departments seek comment on these changes and also request comment on whether any additional changes to the provisions of the Global Asylum and Security Bar rules are necessary or appropriate to accomplish the objectives outlined in this section.

As part of the proposed restructuring of the credible fear determination framework, the proposed rule would also remove the current language at 8 CFR 208.30(g)(2)(i) providing that DHS may reconsider a negative credible fear finding that has been reviewed and upheld by an IJ.[39] Section 208.30(g)(1)(i) would be revised to provide that once the asylum officer has made a negative credible fear determination, the individual either requests IJ review or declines to request review and that declination is treated as a request for review and the individual is served with a Form I–863. At that point, under the proposed rule, the IJ has sole jurisdiction to review whether the individual has established a credible fear of persecution or torture, and an asylum officer may not reconsider or reopen the determination.

These proposed changes reflect an intention to return to the statutory scheme of INA 235(b)(1)(B), 8 U.S.C. 1225(b)(1)(B), under which it is the IJ review of the credible fear determination that serves as the check to ensure that individuals who have a credible fear are not returned based on an erroneous screening determination by USCIS. Section 208.30(g)(1)(i) is amended to provide that, when DHS inquires whether an individual wishes to have an IJ review a negative credible fear determination, DHS will inform the individual that the IJ review will include an opportunity for the individual to be heard and questioned by the IJ. *See* 8 CFR 208.30(g)(1) (proposed). This opportunity will allow such individuals to present any additional evidence or arguments they may wish to make to the IJ, who will consider them in making a de novo determination about whether the individual has a credible fear of persecution or torture.

The clarification that the IJ has sole jurisdiction to review the individual's negative credible fear determination and that asylum officers may not reconsider or reopen a determination that already has passed to the jurisdiction of the IJ is necessary to ensure that requests for reconsideration to USCIS do not obstruct the streamlined process that Congress intended in creating expedited removal. Further, this clarification ensures that the necessary efficiencies implemented in this proposed rule are not undermined.

The expedited removal statute and its implementing regulations generally prohibit any further administrative review or appeal of an IJ's decision made after review of a negative credible fear determination. *See* INA 235(b)(1)(B)(iii)(III), (C), 8 U.S.C. 1225(b)(1)(B)(iii)(III), (C); 8 CFR 1003.42(f)(2), 1208.30(g)(2)(iv)(A). Congress similarly has made clear its intent that expedited removal should remain a streamlined, efficient process by limiting judicial review of many determinations in expedited removal. *See* INA 242(a)(2)(A), (e), 8 U.S.C. 1252(a)(2)(A), (e). These provisions limiting administrative and judicial review and directing expeditious determinations reflect clear congressional intent that expedited removal be a truly expedited process. Removal of the current language at 8 CFR 208.30(g)(2)(i) allowing DHS to reconsider negative credible fear determinations after the IJ concurs is consistent with that congressional intent and with the purpose of the current regulation.

In recent years, USCIS has received growing numbers of meritless reconsideration requests, which have strained agency resources and resulted in significant delays to the expedited removal process. The total time to review a reconsideration request varies widely, but if an office recommends a follow-up interview, then the complete review process could take more than 5 hours per request. The Departments believe that these resources could be far better spent, including in training and supervisory efforts, to ensure the high quality of USCIS initial screening determinations. In many cases, reconsideration requests that previously were considered are resubmitted numerous times without additional information, resulting in additional delays in removal processes that Congress explicitly intended to be conducted through streamlined, efficient procedures.

These developments have highlighted the need to ensure that the IJ review process, rather than reconsideration by USCIS, serves as the safeguard against erroneous negative screening determinations by an asylum officer. These changes will ensure that DOJ and DHS implementation of the expedited removal provisions is consistent with statutory intent. The Departments believe these changes will help accomplish the purpose of the present rule to make the framework of the screening process, including the process following USCIS's fear determination, more efficient and streamlined, while ensuring due process is accorded to all individuals in expedited removal. The Departments seek comments on these proposed changes, including on other options short of eliminating reconsideration entirely—such as imposing restrictions on, or modifications to, reconsideration requests made to USCIS—to address the problems outlined above, while also ensuring efficiency and the opportunity to have one's protection claim properly screened.

C. Applications for Asylum—Proposed 8 CFR 208.3(a) and 208.9(a)

The expedited removal statute specifically provides for an exception to the mandate that a noncitizen be ''removed from the United States without further hearing or review'' when the noncitizen expresses an intention to apply for asylum, a fear of persecution or torture, or a fear of return to the country of removal. Such a person instead is referred to USCIS for a credible fear screening. INA 235(b)(1)(A)(ii), 8 U.S.C. 1225(b)(1)(A)(ii). If the noncitizen is found to have a credible fear of removal, the noncitizen's claim is referred for ''further consideration of the application for asylum.'' INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii). This statutory language, however, does not specify the nature of such ''further consideration.''

Under current regulations, an individual who establishes a credible fear is placed into removal proceedings under section 240 of the INA, 8 U.S.C. 1229a. Under this process, the individual is not required to officially request asylum or file the Form I–589,

modified or rescinded by the Departments at a later date. *See, e.g.,* OMB, *Agenda Rule List—Spring 2021: Department of Homeland Security, https://www.reginfo.gov/public/do/eAgendaMain?operation=OPERATION_GET_AGENCY_RULE_LIST&currentPub=true&agencyCode=&showStage=active&agencyCd=1600.* The Departments, however, do seek comment on whether the changes proposed in this rule would require any other rescissions or modifications of the provisions adopted in recent prior rulemakings.

[39] The proposed versions of the Global Asylum rule and the Security Bars rule both dropped the regulatory provision previously in 8 CFR 1208.30(g)(2) that acknowledged USCIS's ability to reconsider a negative credible fear finding that had already received IJ concurrence, but the Departments responded to comments received about this change by reinserting the provision into 8 CFR 208.30(g) in the final rules, stating that the provision had been omitted from the proposed rule inadvertently. 85 FR at 80275, 84181. This proposed rule again proposes this change but does so for the reasons provided herein.

Application for Asylum and for Withholding of Removal (''Form I–589''), until *after* being placed into removal proceedings. In many cases, the application may be filed many months after removal proceedings are initiated, thus potentially delaying adjudication. In many other cases, an application is never filed. EOIR has reported that, for individuals who were referred to USCIS for the credible fear screening process and then placed into proceedings before EOIR between FY 2008 and the third quarter of FY 2020, only 62 percent have filed an asylum application with EOIR as of July 2020.[40]

Under this proposed rule, an individual who passes the initial credible fear screening would have his claim reviewed by an asylum officer in USCIS in the first instance, rather than by an IJ in a removal hearing under section 240 of the INA. As part of this new procedure for ''further consideration,'' and to eliminate delays between a positive credible fear determination and the filing of an application for asylum, the Departments propose that the written record of the credible fear determination created by USCIS during the credible fear process, and subsequently served on the individual together with the service of the credible fear decision itself, would be treated as an ''application for asylum,'' with the date of service on the individual considered the date of filing. 8 CFR 208.3(a)(2) (proposed). Every individual who receives a positive credible fear determination would be considered to have filed an application for asylum at the time the determination is served on him or her. The application would be considered filed or received as of the service date for purposes of the 1-year filing deadline for asylum, *see* INA 208(a)(2)(B), 8 U.S.C. 1158(a)(2)(B), and for starting the clock for eligibility to file for work authorization on the basis of a pending asylum application, 8 CFR 208.3(c)(3) (current). The Departments propose that this application for asylum would not be subject to the completeness requirement of 8 CFR 208.3(c) and 208.9(a) in order to qualify for hearing and adjudication, but it would be subject to the other conditions and consequences provided for in 8 CFR 208.3(c) once the noncitizen signs the documentation under penalty of perjury and with notice of the consequences of the filing of a frivolous asylum application at the time of the asylum officer hearing.[41]

The Departments plan to implement these changes to the credible fear process by having the trained USCIS asylum officer conducting the credible fear interview advise the noncitizen of the consequences of filing a frivolous asylum application and capture the noncitizen's relevant information through testimony provided under oath. During this process, the asylum officer would ''elicit all relevant and useful information'' for the credible fear determination, *id.* § 208.30(d), create a summary of the material facts presented by the noncitizen during the interview, read the summary back to the noncitizen, and allow the noncitizen to correct any errors, *id.* § 208.30(d)(6). The record created would contain the necessary biographical information and sufficient information related to the noncitizen's fear claim to be considered an application. The information captured by the asylum officer during the credible fear interview will contain information about the noncitizen's spouse and children, including those who were not part of the credible fear determination—but under this proposed rule only a spouse or children who were included in the credible fear determination issued pursuant to proposed 8 CFR 208.30(c) or have a pending asylum application with USCIS pursuant to § 208.2(a)(1)(ii) can be included on the request for asylum.[42] *See id.* § 208.3(a)(2). A copy of this application for asylum, including the officer's notes from the interview and basis for the determination, would be provided to the noncitizen at the time that the credible fear determination is served. *See id.* § 208.30(f), (g)(1). As proposed in this rule, the noncitizen would be allowed to supplement or request modifications or corrections to this application up until 7 days prior to the scheduled asylum hearing before a USCIS asylum officer, or for documents submitted by mail, postmarked no later than 10 days before the scheduled asylum hearing. *Id.* § 208.3(a)(2).

The information required to be gathered during the credible fear screening process is based on the noncitizen's own testimony under oath in response to questions from a trained USCIS asylum officer. Thus, the Departments believe that the screening would provide sufficient information upon which to conduct a full asylum interview. Under this proposed rule, all noncitizens who receive a positive credible fear determination would have an asylum application on file with the Government within days of their credible fear screenings, thereby meeting the one-year asylum filing deadline, avoiding the risk of filing delays, and immediately beginning the waiting period for work authorization eligibility. Understanding that noncitizens may want to modify, correct, or supplement the initial presentation of their protection claims, this proposed rule would allow the noncitizen to do so in advance of the hearing before the asylum officer. The Departments seek comments on all aspects of this proposed change.

D. Proceedings for Further Consideration of the Application for Asylum by USCIS Asylum Officer in Asylum and Withholding Merits Hearing for Noncitizens With Credible Fear—Proposed 8 CFR 208.2(a) and (c); 208.9(a), (f), and (g); 208.14(c)(5); 208.30(e) and (f); 235.6(a)(1); 1003.42; and 1208.30(g)

As noted earlier in the preamble, under the current regulatory framework, if an asylum officer determines that a noncitizen subject to expedited removal has a credible fear of persecution or

[40] EOIR, *Executive Office for Immigration Review Adjudication Statistics: Rates of Asylum Filings in Cases Originating with a Credible Fear Claim* (July 2020), *https://www.justice.gov/eoir/page/file/1062971/download.*

[41] In addition, the Departments are proposing to amend 8 CFR 1208.3 and 1208.4 to account for changes made by this proposed rule, including the proposed provisions that would treat the credible fear interviews as an application for asylum in the circumstances addressed by the proposed rule. The amendment at 8 CFR 1208.3(c)(3) affects language that was enacted by DOJ in 2020. *See* Procedures for Asylum and Withholding of Removal, 85 FR 81698 (Dec. 16, 2020). The December 16, 2020 rulemaking made various changes to DOJ regulations, including 8 CFR 1208.3(c)(3). *Id.* Those changes remain enjoined. *See National Immigrant Justice Center, et. al.,* v. *Exec. Office for Immigration Review, et. al.,* No. 21–CV–00056 (D.D.C.). As noted above, the proposed rule would make changes to the regulations only as necessary to effectuate its goals. The Departments anticipate that additional changes to the relevant regulations, including rescission of or revision to the language added by the enjoined regulation, will be made through later rulemakings.

[42] While only a spouse or dependent included on the credible fear determination or who presently has an asylum application pending with USCIS after a positive credible fear determination can be included on the subsequent asylum application under this proposed process, the noncitizen granted asylum remains eligible to apply for accompanying or follow-to-join benefits for any qualified spouse or child not included on the asylum application, as provided for in 8 CFR 208.21. The Departments believe that it is procedurally impractical to attempt to include a spouse or child on the application when the spouse or child has not previously been placed into expedited removal and subsequently referred to USCIS after a positive credible fear determination. This is similar to the inability to include a spouse or child not in removal proceedings under section 240 of the INA on the asylum application of a principal asylum application who is in such removal proceedings. Under such circumstances, there is no clear basis for issuing a final order of removal against such an individual spouse or child should the asylum application be denied. The Departments seek comments on this proposed approach.

torture, DHS places the noncitizen before an immigration court for adjudication of the noncitizen's claims by initiating section 240 removal proceedings.[43] Similarly, if an IJ, upon review of the asylum officer's negative credible fear determination, finds that the noncitizen possesses a credible fear of persecution or torture, the IJ vacates the expedited removal order, and DHS initiates section 240 removal proceedings. 8 CFR 1208.30(g)(2)(iv)(B). Section 240 removal proceedings, which are used to determine removability as well as eligibility for any relief or protection from removal, currently provide additional procedural protections, including greater administrative and judicial review, than expedited removal proceedings under section 235 of the Act. *Compare* INA 235(b)(1), 8 U.S.C. 1225(b)(1), *with* INA 240, 8 U.S.C. 1229a.

As noted previously, however, the expedited removal statute provides only that a noncitizen who is found to have a credible fear ''shall be detained for further consideration of the application for asylum.'' INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii). The statute mandates neither that the noncitizen be placed in removal proceedings generally nor placed in section 240 removal proceedings specifically. *Id.*

The regulations regarding the credible fear process, and the interplay between expedited removal and section 240 removal proceedings, were first adopted in 1997.[44] At the time, the former INS explicitly recognized that ''the statute is silent as to the procedures for those who do demonstrate a credible fear of persecution.''[45] Faced with this ambiguity, the INS opted at the time to have the further consideration take place in pre-existing section 240 removal proceedings rather than create new proceedings for this purpose.[46] But the INS's contemporaneous analysis was very limited.

The Departments believe that section 235(b)(1) of the INA, 8 U.S.C. 1225(b)(1), authorizes a procedure for ''further consideration of [an] application for asylum'' that is separate from section 240 removal proceedings. By its terms, the phrase ''further consideration'' is open-ended and does not mandate any particular procedure. It is thus naturally read as giving DHS flexibility to determine the appropriate procedure for consideration of noncitizens' asylum claims after establishing a credible fear in the expedited removal process. Moreover, while section 235(b)(1) of the INA, 8 U.S.C. 1225(b)(1), mandates that a noncitizen with a positive credible fear determination receive ''further consideration of [the noncitizen's] application for asylum,'' section 235(b)(2) of the INA, 8 U.S.C. 1225(b)(2), mandates that other classes of noncitizens receive ''a proceeding under section 1229a of this title,'' *i.e.,* section 240 of the INA. *Compare* INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii), *with* INA 235(b)(2)(A), 8 U.S.C. 1225(b)(2)(A). The difference in language suggests that section 235(b)(1) of the INA, 8 U.S.C. 1225(b)(1), does not require use of section 240 removal proceedings, in contrast to section 235(b)(2), 8 U.S.C. 1225(b)(2), which does. The Supreme Court has observed that ''[w]here Congress includes particular language in one section of a statute but omits it in another section of the same act, it is generally presumed that Congress acts intentionally and purposely in the disparate inclusion or exclusion.'' *Russello* v. *United States,* 464 U.S. 16, 23 (1983) (internal quotation marks and citation omitted). More recently, the D.C. Circuit stated that it has ''consistently recognized that a congressional mandate in one section and silence in another often suggests not a prohibition but simply a decision *not to mandate* any solution in the second context, *i.e.,* to leave the question to agency discretion.'' *Catawba Cty., N.C.* v. *EPA,* 571 F.3d 20, 36 (D.C. Cir. 2009) (emphasis in original) (internal quotation marks and citation omitted).[47] The inference that Congress's silence intentionally permits agency discretion is reinforced by the fact that the noncitizens whom DHS has elected to process into the United States using the expedited removal procedure are expressly excluded from the class of noncitizens who are statutorily guaranteed section 240 removal proceedings under section 235(b)(2)(A) of the INA, 8 U.S.C. 1225(b)(2)(A). *See* INA 235(b)(2)(B)(ii), 8 U.S.C. 1225(b)(2)(B)(ii).

Second, a noncitizen with a positive credible fear determination is entitled only to a further proceeding related to their ''application for asylum,'' or for withholding of removal under section 241(b)(3) of the INA, 8 U.S.C. 1251(b)(3), or withholding or deferral of removal under the regulations implementing U.S. obligations under Article 3 of the CAT. INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii); 8 CFR 208.30(e). An asylum application's purpose is to determine whether the noncitizen is entitled to relief or protection from removal, not whether the noncitizen should be admitted or granted other immigration benefits. *See Sanchez* v. *Mayorkas,* 141 S. Ct. 1809, 1813 (2021) (''[A] foreign national can be in lawful status but not admitted—think of someone who entered the country unlawfully, but then received asylum.''); *Matter of V–X–,* 26 I&N Dec. 147, 150 (BIA 2013) (holding that, ''although [a noncitizen's] grant of asylum confer[s] a lawful status upon him, it [does] not entail an 'admission' ''). By contrast, the purpose of a section 240 removal proceeding is to ''determin[e] whether [a noncitizen] may be admitted to the United States.'' INA 240(a)(3), 8 U.S.C. 1229a(a)(3). In section 240 removal proceedings, both removability and entitlement to various forms of relief or protection are determined. *Compare* INA 235(b)(1)(B)(ii), 8 U.S.C. 1225(b)(1)(B)(ii), *with* INA 240(c)(2)–(4), 8 U.S.C. 1229a(c)(2)–(4).[48] Moreover, the Departments believe that it is better policy to place noncitizens with a positive credible fear determination initially in nonadversarial proceedings in which their asylum claims can be adjudicated by asylum officers.

The idea of allowing USCIS asylum officers to fully adjudicate the

[43] *See* 8 CFR 208.30(f) (2018); *supra* note 24 (explaining that various changes to these procedures have been enjoined).

[44] Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR 10312 (Mar. 6, 1997) *(interim final rule).*

[45] *Id.* at 10320; *see* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 FR 444, 447 (Jan. 3, 1997) (proposed rule) (noting that although the statute calls for further consideration of the noncitizen's asylum application, it ''does not specify how or by whom this further consideration should be conducted'').

[46] 62 FR at 10320.

[47] *See also Henson* v. *Santander Consumer USA, Inc.,* 137 S. Ct. 1718, 1723 (2017) (''[U]sually at least, . . . we presume differences in language . . . convey differences in meaning.'').

[48] The Departments acknowledge that there is some legislative history suggesting that some Members of Congress believed that individuals found to have a credible fear would be referred to section 240 removal proceedings. *See, e.g.,* H.R. Rep. No. 104–828, at 209 (1996) (suggesting that noncitizens who received positive credible fear determinations would be placed in ''normal non-expedited removal proceedings''). But the Departments are not convinced that the legislative history is sufficiently clear to foreclose an option the text itself does not ''unambiguously forbid.'' *Barnhart* v. *Walton,* 535 U.S. 212, 218 (2002). Indeed, other Members of Congress took a different view. *See* Letter for Richard A. Sloan, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, from Lamar Smith, Chairman, Subcommittee on Immigration and Claims, *Re: INS 1788–96, RIN 1115–AE47* (Feb. 3, 1997), *in Implementation to Title III of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996: Hearing Before the Subcomm. on Immigration and Claims of the H. Comm. on the Judiciary,* 105th Cong. 21–22 (1997) (''Section 235(b)(1)(B)(ii) [was] drafted deliberately to leave flexibility regarding how the asylum adjudication would take place.'').

protection claims made by noncitizens who receive a positive credible fear determination is not new. In its congressionally mandated 2005 report on the expedited removal process, the U.S. Commission on International Religious Freedom (''USCIRF'') recommended that asylum officers be allowed to grant asylum to ease ''the burden on the detention system, the immigration courts, and bona fide asylum seekers in Expedited Removal.'' [49] The USCIRF repeated this recommendation when it conducted a follow-up study and issued an updated report in 2016, stating as follows:

> One solution to reduce the immigration courts' caseload and backlog is to allow asylum officers to adjudicate defensive asylum claims, as USCIRF recommended in the 2005 Study. Asylum officers have the legal background and training to adjudicate asylum claims, and do so for affirmative asylum cases. Further, having an asylum officer review a credible fear claim and then having an immigration judge review an asylum claim creates significant redundancy without necessarily adding value.[50]

In 2012, the Administrative Conference of the United States studied the removal process and also issued recommendations that regulations be changed to allow for asylum officers to adjudicate protection claims for noncitizens determined to have a credible fear as part of a package of proposals to improve the operations of the immigration courts.[51] More recently, experts from the Migration Policy Institute (''MPI'') reached a similar conclusion in a 2018 report on the state of the U.S. asylum system. MPI concluded as follows:

> Allowing cases with positive credible-fear findings to instead remain with the Asylum Division for the full asylum merits adjudication would capitalize on the investment of time and expertise the division has already made. It would also enable meritorious cases to be resolved more quickly, reducing the overall asylum system backlogs and using limited asylum officer and IJ resources more efficiently.[52]

In reaching this conclusion, these experts noted that moving the cases to the USCIS Asylum Division for adjudication plays to its strengths, including its experience in handling asylum and asylum-related adjudications; its regular trainings on asylum-related country conditions and legal issues, as well as nonadversarial interviewing techniques; and its ready access to country conditions experts. Additionally, the MPI experts concluded that nonadversarial proceedings are well suited for this process because they are ''considerably less resource-intensive than immigration court proceedings'' and ''lend themselves to a fuller understanding of the strengths and weaknesses of an applicant's case.'' [53] The DHS Homeland Security Advisory Council's (''HSAC'') bipartisan CBP Families and Children Care Panel also included this recommendation in its final report to the Secretary.[54] This panel of the HSAC was created at the request of the Secretary in October 2018 to study ''the burgeoning humanitarian crisis resulting from a surge in migration of families, primarily from Guatemala and Honduras, overwhelming the DHS resources at the border to address the crisis.'' [55]

The Departments acknowledge that the above recommendations assumed that individuals denied asylum by a USCIS asylum officer would be issued an NTA and placed into section 240 removal proceedings before an IJ, where the noncitizen would have a second, full evidentiary hearing on the asylum application with a different decision-maker. This proposed rule would not adopt that approach, as the Departments determined it was unnecessary, duplicative, and inefficient. Instead, as noted in the previous section, this proposed rule would establish a new process that would require the IJ to conduct a de novo review of a denied application for protection when such review is requested, but it would not provide the noncitizen with a second full evidentiary hearing to present the claim. The Departments believe that an approach requiring a full evidentiary hearing before an IJ after an asylum officer's denial would lead to inefficiencies without adding additional value or procedural protections. Under this proposal, the asylum officer will have developed and considered the noncitizen's claim fully, including by taking testimony and accepting evidence, during the nonadversarial proceeding. If a noncitizen seeks review of an asylum officer's denial, the IJ would have a complete record for review developed by the asylum officer (including a transcript of the hearing and any evidence offered by the applicant or otherwise considered by the officer) and the written decision of the asylum officer. The noncitizen would have a full opportunity to challenge the asylum officer's denial during this review process and would not need to present their claim at a second full hearing. Instead, to the extent that a noncitizen seeks to introduce additional non-duplicative testimony or evidence, a provision of the proposed rule would allow them to do so if certain requirements are met. *See* 8 CFR 1003.48(e) (proposed). Accordingly, the Departments believe that a second full evidentiary hearing before an IJ is unnecessary and inefficient. A further description of the proposed review process follows in the next section.

This proposed rule would change current procedures to allow a noncitizen who is found to have a credible fear to have a full adjudication of the noncitizen's protection claims by an asylum officer. 8 CFR 208.2(a) (proposed) (revising jurisdiction over asylum applications in order to provide USCIS jurisdiction to hear asylum claims after a positive credible fear determination), *id.* § 208.30(f) (retention of a positive credible fear determination with USCIS for an asylum hearing); *id.* §§ 1003.42, 1208.30(g) (referral of negative credible fear determinations vacated by an IJ to USCIS for an asylum hearing). This would supplant the process in place prior to this proposed rule whereby DHS referred such an individual directly to an IJ for an adversarial hearing in a section 240 removal proceeding. Proposed 8 CFR 1003.42 and 1208.30(g) of the EOIR regulations reflect similar changes, enabling an IJ who vacates an asylum officer's negative credible fear determination to refer the case back to USCIS for an asylum hearing.

The Departments propose to make corresponding amendments to 8 CFR 208.2(c), 8 CFR 208.30(e)(5) and (f), and 8 CFR 235.6(a)(1) to provide that the cases of individuals who receive a positive credible fear determination may be retained by USCIS for a nonadversarial hearing before a USCIS asylum officer under the jurisdiction of 8 CFR 208.2(a)(1)(ii) to determine eligibility for asylum, statutory withholding of removal, and

[49] USCIRF, *Report on Asylum Seekers in Expedited Removal, Volume I: Findings & Recommendations* 66 (Feb. 2005), *https://www.uscirf.gov/sites/default/files/resources/stories/pdf/asylum_seekers/Volume_I.pdf.*

[50] USCIRF, *Barriers to Protection: The Treatment of Asylum Seekers in Expedited Removal* 54 (Aug. 2016), *https://www.uscirf.gov/sites/default/files/Barriers%20To%20Protection.pdf.*

[51] Administrative Conference of the United States, *Administrative Conference Recommendation 2012–3: Immigration Removal Adjudication* 15 (June 15, 2012), *https://www.acus.gov/sites/default/files/documents/2012-3.pdf.*

[52] Doris Meissner, Faye Hipsman, & T. Alexander Aleinikoff, *The U.S. Asylum System in Crisis: Charting a Way Forward* 3, Migration Policy Institute (Sept. 2018), *https://www.migrationpolicy.org/sites/default/files/publications/MPI-AsylumSystemInCrisis-Final.pdf.*

[53] *Id.* at 26.

[54] HSAC, *CBP Families and Children Care Panel Final Report* 24 (Nov. 14, 2019), *https://www.dhs.gov/sites/default/files/publications/fccp_final_report_1.pdf.*

[55] *Id.* at 4.

withholding of deferral or removal under CAT. The Departments also propose to amend 8 CFR 1003.1, 8 CFR 1003.12, 8 CFR 1208.2, and 8 CFR 1208.30 of the EOIR regulations, and to add a new section 8 CFR 1003.48, to make corresponding changes regarding how and when cases involving individuals found to have a credible fear would be referred by DHS to EOIR.

The proposed nonadversarial proceedings for further consideration of asylum applications by asylum officers would provide protections similar to those provided in section 240 removal proceedings. The asylum officer's consideration under this proposal, however, would be limited solely to claims for asylum, statutory withholding of removal, and withholding or deferral of removal under the CAT regulations. 8 CFR 208.2(a)(2) (proposed). Under this proposed rule, if the asylum officer denies the noncitizen asylum, statutory withholding of removal, and protection under the CAT regulations, the noncitizen would be ordered removed based upon the immigration officer's earlier inadmissibility determination under section 235(b)(1)(A)(i) of the INA, 8 U.S.C. 1225(b)(1)(A)(i). The noncitizen, may, however appeal an adverse decision to an IJ, and if necessary, to the BIA. 8 CFR 208.14(c)(5), 1003.1(b)(15), 1208.2(b).

To allow asylum officers to carry out this new responsibility fully, additional changes to the regulations have been proposed. First, the Departments propose that under 8 CFR 208.9(f), asylum officers would be required to record the asylum hearing and that a transcript of that recording would be made part of the record whenever a noncitizen denied protection seeks review of a denial. USCIS would transcribe the asylum hearing recording and a copy of the transcript and the record developed at the hearing would be served on the applicant and filed with the immigration court. The hearing would be transcribed prior to the record being referred for review. Second, the Departments propose that USCIS be required to provide an interpreter for any hearing, just as EOIR is required to do for a removal hearing. 8 CFR 208.9(g) (proposed). Third, as in section 240 removal proceedings, the Departments propose that the noncitizen would be entitled to be represented, at no expense to the Government, by counsel of the noncitizen's choosing who is authorized to practice in such proceedings. *See id.* § 1003.12 (proposed), 1003.16 (current); *cf.* 8 U.S.C. 1229a(b)(4).

The Departments propose that the ''failure to appear'' rule at 8 CFR 208.10 be revised to allow for an order of removal to be issued when the noncitizen fails to appear for the scheduled hearing with the asylum officer. Changes to 8 CFR 208.16 through 208.19 also are proposed in order to provide asylum officers authority to adjudicate claims for withholding of removal under section 241(b)(3) of the INA, 8 U.S.C. 1231(b)(3), and withholding and deferral of removal under the regulations implementing the CAT. Existing 8 CFR 208.14(b) already provides USCIS the authority to grant an asylum application properly within USCIS's jurisdiction, including the jurisdiction given USCIS by this proposed rule over asylum applications from noncitizens determined to have a credible fear. Similar authority is provided for immigration judges in existing 8 CFR 1208.14. Finally, the Departments propose that 8 CFR 208.14(c)(5) be added to provide the process for USCIS to deny an application for asylum, including the issuance of a decision on withholding and deferral of removal if asylum is denied; the issuance of an order of removal by the asylum officer after the merits hearing; and the process for the applicant to seek review of an asylum denial before an IJ. Review of these decisions would be governed by proposed 8 CFR 1003.48. The Departments also propose technical edits to 8 CFR 208.22 to include references to corresponding sections of both 8 CFR part 208 and 8 CFR part 1208. The Departments seek comments on all aspects of these proposed changes, including whether different or additional decision and review procedures should apply to applications considered under this proposed process.

The authority of asylum officers to enter an order of removal after denying a noncitizen's asylum claim follows from the relevant provisions of the INA. By definition, noncitizens who are placed into expedited removal already have been determined to be inadmissible and are protected from immediate removal only because their credible fear of persecution entitled them to further consideration of their asylum claim. *See* INA 235(b)(1), 8 U.S.C. 1225(b)(1). If, after that further consideration, an asylum officer concludes that a noncitizen is not entitled to asylum, that determination removes the only remaining legal barrier to removal. That determination qualifies as an order of removal under the relevant statutory definition, which provides that an ''order of deportation'' includes not only an order ''ordering deportation,'' but also an order ''concluding that [a noncitizen] is deportable.'' INA 101(a)(47)(A), 8 U.S.C. 1101(47)(A). The Seventh Circuit reached the same conclusion in addressing another class of noncitizens whose only defense to removal is a potential asylum claim: Those who entered under the visa-waiver program, INA 217(b)(2), 8 U.S.C. 1187(b)(2). The court explained that an order denying such a noncitizen's asylum claim is an order of removal because ''an order that is proper only if the [noncitizen] is remov*able* implies an order of removal.'' *Mitondo* v. *Mukasey,* 523 F.3d 784, 787 (7th Cir. 2008). This proposed rule therefore would provide that if the noncitizen is not granted asylum at the conclusion of the asylum hearing, the asylum officer is authorized to issue an order of removal.

E. Application Review Proceedings Before the Immigration Judge—Proposed 8 CFR 1208.2(c), 1003.48

The Departments propose to amend 8 CFR 1208.2(c) and add 8 CFR 1003.48 to establish new IJ review proceedings for those noncitizens who establish a credible fear of persecution or torture but (1) were found by USCIS not to merit asylum, statutory withholding of removal, or protection under the CAT and its implementing regulations; and (2) affirmatively request further review of their applications by an IJ. The Departments propose that upon a referral of the case from USCIS, the IJ would conduct a de novo review of USCIS's denial of the claims.

Under these proposed limited review proceedings, unlike under section 240 of the INA, 8 U.S.C. 1229a, the IJ would not have authority to consider issues related to a noncitizen's removability or a noncitizen's eligibility for any other relief from removal. Moreover, an IJ ordinarily would not conduct an evidentiary hearing on the noncitizen's asylum application. Rather, the IJ would determine, after de novo review of the full record of proceedings created during asylum officer hearings and consideration of any additional testimony or evidence permitted under the proposed process described below, whether a noncitizen is eligible for asylum or withholding of removal under the Act or withholding or deferral of removal under the CAT. Although the Departments intend these proceedings to be more streamlined than section 240 removal proceedings, asylum officer and IJ review, together, would provide significant protections to ensure that these noncitizens continue to receive full and fair adjudication of their applications.

For noncitizens who affirmatively request further review by an IJ, the Departments propose that DHS would initiate the review proceedings through the service of a Form I–863, Notice of Referral to Immigration Judge, on the noncitizen. As proposed in 8 CFR 1003.48(b), DHS would file the following items with the immigration court: (1) A copy of the Notice of Referral; (2) a copy of the record of proceedings before the asylum officer, as outlined in 8 CFR 208.9(f); (3) the asylum officer's written decision, including the removal order issued under 8 CFR 208.14(c)(5) by the asylum officer; and (4) proof that DHS served the Notice of Referral, the record of proceedings, and the asylum officer's written decision, including the removal order, on the noncitizen. Unlike in credible fear determination reviews, where the IJ is provided only asylum officers' notes from the interview, the summary of the material facts, and other limited records, *see, e.g.,* 8 CFR 208.30(e)(4), the proposed requirements in 8 CFR 1003.48(b) would ensure that cases would only be referred to the immigration courts following asylum officers' full nonadversarial adjudication of the noncitizens' applications, and that IJs and noncitizens would have asylum officers' decisions and complete records of the hearings in advance of the IJ review. This would allow the noncitizen to have notice of the reasons for the asylum officer's denial in advance of the immigration court review process, and it would allow the IJ to conduct a thorough review of the asylum officer's decision based on the application and complete record developed before the asylum officer. Accordingly, because the IJ would be provided the complete record of proceedings from the asylum officer hearing, the Departments expect that the IJ generally would be able to complete the de novo review solely on the basis of the record before the asylum officer, taking into consideration any arguments raised by the noncitizen, or the noncitizen's counsel, and DHS.

That said, the proposed rule recognizes that the factual record as elicited by the asylum officer sometimes will need to be further developed before the IJ. The rule proposes at 8 CFR 1003.48(e) that an IJ does not have the authority to remand a case to an asylum officer because the Departments believe that this would be unnecessary and inefficient. Instead, the rule proposes that a party may seek to introduce additional testimony or documentation so long as the party demonstrates to the IJ that the testimony or documentation is not duplicative of the testimony or documentation considered by the asylum officer and that it is necessary to develop the factual record to allow the IJ to issue a reasoned decision in the case. The Departments expect that an IJ may, in appropriate cases, require parties to submit prehearing statements or briefs concerning whether they will seek to introduce additional testimony or documentation and, if so, explaining why this testimony or documentation meets the standard at 8 CFR 1003.48(e). The Departments further expect that, where necessary, for example in cases involving pro se applicants, IJs will, before proceeding with the case, explain in court the standards for submitting additional testimony and documentation. This proposed provision would ensure a full and fair evaluation of the applicant's application for asylum, withholding of removal under the Act, or withholding or deferral of removal under the CAT.

The Departments believe that this proposed regulatory scheme—under which IJs typically would rely on the record created at the asylum officer hearing but could allow additional testimony and evidence if a party establishes that doing so is necessary—is the best way to balance efficiency and fairness considerations appropriately.[56] The Departments believe that these proceedings, as proposed, will be more streamlined than removal proceedings but will still provide the parties with a fair opportunity to present their cases. Nevertheless, the Departments understand that there are alternative threshold standards for the introduction of evidence or the reopening of proceedings.[57] Accordingly, the Departments request the public's comments on the proposed evidentiary threshold requirements, including any suggestions for alternatives that balance efficiency and fairness considerations, particularly taking into account challenges pro se applicants for asylum and related protection sometimes face in developing their claims.

To ensure that noncitizens have a full and fair opportunity to prepare for and receive review of their claims, the Departments propose that many of the procedural safeguards that apply in section 240 removal proceedings would apply to the IJ review proceedings as well. Unless specifically indicated in 8 CFR 1003.48 of the EOIR proposed rules, the general rules of procedure that apply in removal proceedings before the immigration courts also would apply to these proceedings. This would include a noncitizen's rights (1) to obtain representation by an attorney or other representative authorized to appear before the immigration court, at no cost to the Government, *see* 8 CFR 1003.16(b); (2) to seek a change of venue, *see id.* § 1003.20(b); and (3) to seek a continuance for good cause shown, *see id.* § 1003.29. Moreover, the provisions of 8 CFR 1003.2 and 1003.23 governing motions to reopen and reconsider generally would be applicable to decisions rendered by IJs or the BIA in these proceedings. The Departments also propose to add a cross-reference in 8 CFR 1003.12 to the new proceedings under 8 CFR 1003.48 to codify these procedural protections.

The rule further proposes at 8 CFR 1003.48(d) that the IJ would have the discretion, pursuant to a motion filed by an applicant, to vacate the asylum officer's order of removal. For the motion to be granted, the applicant would have to show that he or she is prima facie eligible for a form of relief that cannot be granted in proceedings under 8 CFR 1003.48. With the motion granted, DHS would have the discretion to place the applicant in removal proceedings. An applicant would be permitted to file only one such motion, the motion would have to be filed before the IJ issues a decision on the applications for asylum and related protection, and motions to apply for voluntary departure would not be granted. The Departments believe these limitations are appropriate given the goal of meaningfully streamlining these proceedings as compared with removal proceedings. That said, the Departments seek the public's comments on whether the provisions relating to motions to vacate removal orders appropriately balance fairness and efficiency considerations.

In these proposed proceedings, the IJ would have the authority to review all decisions issued by the asylum officer, upon request by the applicant. *See* 8 CFR 1003.48(a) (proposed). For example, if the asylum officer denies an applicant's application for asylum but grants the applicant's application for withholding of removal under the Act, and the applicant requests review by an IJ, the IJ would have the authority to review not only the denial of asylum but also the grant of withholding of removal as well. In these mixed cases, the

[56] *See, e.g., INS* v. *Abudu,* 485 U.S. 94, 107 (1988) (''There is a strong public interest in bringing litigation to a close as promptly as is consistent with the interest in giving the adversaries a fair opportunity to develop and present their respective cases.'').

[57] *See, e.g., Matter of Coelho,* 20 I&N Dec. 464, 473 (BIA 1992) (providing that the moving party generally must demonstrate that ''new evidence offered would likely change the result in the case'' in order for the BIA to consider granting a discretionary motion to remand).

Departments believe it is appropriate, where the applicant has requested review of an asylum officer's decision, to permit IJs to review not only the denial but also the grant, because DHS could present documentation or testimony before the IJ that is admissible under 8 CFR 1003.48(e) and that indicates that the applicant does not qualify for any of the relief or protection at issue. The Departments seek comment on whether the IJ should have the authority to review all decisions of the asylum officer in this manner.

As proposed at 8 CFR 1003.48(e), if the IJ determines that the noncitizen is eligible for and merits asylum as a matter of discretion, the IJ would issue a decision vacating the order of removal issued by the asylum officer based upon the immigration officer's initial inadmissibility determination under section 235(b)(1)(A)(i) of the Act, 8 U.S.C. 1225(b)(1)(A)(i), and granting the noncitizen asylum. If the IJ determines that the noncitizen is eligible for withholding of removal under the Act or withholding or deferral of removal under the CAT, the IJ would issue a decision granting the appropriate protection, but the IJ would not vacate the removal order issued by the asylum officer.[58]

The Departments propose that either party may appeal the IJ's decision rendered in the new proceedings under 8 CFR 1003.48 to the BIA in accordance with the standard EOIR appeal procedures that currently apply to removal proceedings, including the submission of a Form EOIR–26, Notice of Appeal from a Decision of an Immigration Judge. *See generally* 8 CFR 1003.3, 1003.38. The Departments also propose to amend 8 CFR 1003.1(b) to make clear that a noncitizen may appeal the IJ's decision to the BIA and that the review of these decisions is within the BIA's jurisdiction. And, as with BIA decisions in removal proceedings, the noncitizen may seek judicial review before the appropriate circuit court of appeals. *See* INA 242, 8 U.S.C. 1252(a)(1).[59] Accordingly, noncitizens under the proposed regulations would have opportunities at four levels to have their claims for asylum, withholding of removal, or deferral of removal considered: First during a nonadversarial hearing before an asylum officer and then, if necessary, on review by an IJ, the BIA, and the appropriate circuit court of appeals.

F. Severability

Upon the completion of the notice and comment period provided for herein and subsequent issuance of a final rule, to the extent that any portion of the resulting final rule is stayed, enjoined, not implemented, or otherwise held invalid by a court, the Departments intend for all other parts of the final rule that are capable of operating in the absence of the specific portion that has been invalidated to remain in effect. Thus, even if a judicial decision invalidating a portion of the final rule results in a partial reversion to the current regulations or to the statutory language itself, the Departments intend that the rest of the final rule continue to operate in tandem with the reverted provisions, if at all possible. The Departments seek comment on whether (and which of) the regulatory provisions proposed herein should be severable from one another.

G. Discretion/Phased Implementation

The Departments believe that the proposed changes in this rule are necessary to establish a more streamlined and timely adjudication process for individuals who establish a credible fear of persecution or torture, while simultaneously ensuring fundamental fairness. The Departments emphasize, however, that this proposed rule would provide DHS the discretion to continue placing such individuals directly into section 240 removal proceedings before an IJ. This discretion may be exercised, for example, when a noncitizen with a positive credible fear determination may have committed significant criminal activity, have engaged in past acts of harm to others, or pose a public safety or national security threat. In some cases, DHS may determine that it is more appropriate for such noncitizens' protection claims to be heard and considered in the adversarial process before an IJ.

Additionally, if the Departments decide to issue a final rule implementing this new process during FY 2022, DHS would also need to continue to place many noncitizens receiving a positive credible fear determination into section 240 removal proceedings, while USCIS takes the steps needed to allow it to fully implement this new process for all cases. As discussed below in greater detail in the costs and benefits analysis of this proposal and its impacts on USCIS, as required under Executive Orders 12866 and 13563, USCIS has estimated that it will need to hire approximately 800 new employees and spend approximately $180 million to fully implement the proposed asylum officer hearing and adjudication process to handle approximately 75,000 cases annually. If the number of noncitizens placed into expedited removal and making successful fear claims increases significantly above that estimate, the cost to implement this proposed rule with staffing levels sufficient to handle the additional cases in a timely fashion would be substantially higher.[60] Until USCIS is able to support full implementation, USCIS would need to continue to place a large percentage of individuals receiving a positive credible fear determination into section 240 removal proceedings. This exercise of discretion is similar to and in line with DHS's recognized prosecutorial discretion to issue an NTA to a covered

[58] A grant of withholding of removal ''does not afford [a noncitizen] any permanent right to remain in the United States'' and ''does not prevent the DHS from removing [a noncitizen] to a country other than the one to which removal has been withheld.'' *Guzman Chavez,* 141 S. Ct. at 2286 (quoting *Matter of I-S- & C-S-,* 24 I&N Dec. 432, 434 (BIA 2008)). That presupposes the issuance of a removal order to preserve DHS's discretion to remove the noncitizen to a third country. *See id.* at 2287–88 (noting that ''it is axiomatic that in order to withhold removal there must first be an order of removal that can be withheld'' (internal quotation marks and citation omitted)).

[59] The courts of appeals have jurisdiction to review ''a final order of removal.'' INA 242(a)(1), 8 U.S.C. 1252(a)(1). As several courts of appeals have held, that grant of jurisdiction includes the authority to review a conclusion that an otherwise-removable noncitizen is ineligible for asylum, even where—unlike under the present rule—''no formal order of removal has been entered.'' *Mitondo,* 523 F.3d at 787; *see Shehu* v. *Att'y Gen.,* 482 F.3d 652, 656 (3d Cir. 2007); *Kanacevic* v. *INS,* 448 F.3d 129, 134–35 (2d Cir. 2006); *Nreka* v. *Att'y Gen.,* 408 F.3d 1361, 1366–67 (11th Cir. 2005). The courts of appeals do not have jurisdiction to review ''an order of removal without a hearing pursuant to [8 U.S.C.] 1225(b)(1).'' INA 242(a)(1), 8 U.S.C. 1252(a)(1); *see* INA 242(a)(2)(A), 8 U.S.C. 1252(a)(2)(A) (additional limits on review of matters related to removal orders issued pursuant to INA 235(b)(1), 8 U.S.C. 1225(b)(1)). That limitation does not apply here. An order of removal entered after an asylum officer conducts a full hearing on a noncitizen's asylum application is not ''an order or removal without a hearing.'' And, in the context of INA 242's limits on judicial review, the references to an order of removal issued ''pursuant to'' INA 242(b)(1), 8 U.S.C. 1225(b)(1), most naturally is read to encompass only the orders expressly described in that provision: An order issued when a noncitizen subject to expedited removal does not indicate an intention to apply for asylum or a fear of persecution, INA 235(b)(1)(A)(i), 8 U.S.C. 1225(b)(1)(A)(i), or an order issued when a noncitizen is found not to have a credible fear of persecution, INA 235(b)(1)(B)(iii)(I),8 U.S.C. 1225(b)(1)(B)(iii)(I). *Cf. Guerrero-Lasprilla* v. *Barr,* 140 S. Ct. 1062, 1069 (2020) (applying ''the presumption favoring judicial review of administrative action'' in construing another limit on judicial review in INA 242, 8 U.S.C. 1252).

[60] USCIS presently has over 400,000 pending affirmative asylum applications awaiting interview or adjudication. In proposing this rule, the Departments seek to avoid simply shifting work from a resource-challenged EOIR to a similarly resource-challenged USCIS Asylum Division. DHS seeks to fully resource the USCIS Asylum Division to handle their present workloads and this new workload prior to the USCIS full takeover of the adjudication of protection claims that follow a positive credible fear determination.

noncitizen in expedited removal proceedings at any time after the covered citizen is referred to USCIS for a credible fear determination. *See Matter of E-R-M- & L-R-M-,* 25 I&N Dec. at 523.

USCIS is primarily funded by immigration and naturalization benefit request fees charged to applicants and petitioners. Fees collected from individuals and entities filing immigration benefit requests are deposited into the Immigration Examinations Fee Account (''IEFA''). These fee collections fund the costs of adjudicating immigration benefit requests, including those provided without charge to refugee, asylum, and certain other applicants. The authority for establishing fees is found in section 286(m) of the INA, 8 U.S.C. 1356(m), which authorizes DHS to charge fees for adjudication and naturalization services at a level to ''ensure recovery of the full costs of providing all such services, including the costs of similar services provided without charge to asylum applicants or other immigrants.''

The Chief Financial Officers Act of 1990 (''CFO Act''), 31 U.S.C. 901–03, requires each agency's chief financial officer to ''review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.'' 31 U.S.C. 902(a)(8). USCIS conducted a FY 2019 and 2020 IEFA fee review, as required under the CFO Act, and, as a result of that review, DHS published an updated final fee rule on August 3, 2020, with an effective date of October 2, 2020. *See* U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 85 FR 46788 (Aug. 3, 2020). Implementation of that new fee rule was enjoined before its effective date, and USCIS has notified the public that it intends to continue to comply with the court injunctions.[61] DHS intends to rescind and replace the changes made by the August 3, 2020 fee rule and establish new USCIS fees to recover USCIS operating costs.[62]

Current resource constraints would prevent the Departments from immediately achieving their ultimate goal of having the protection claims of nearly all individuals who receive a positive credible fear determination adjudicated by an asylum officer. The Departments believe that to fully implement the proposed rule, additional resources would be required. The Departments therefore propose that the new process be implemented in phases, as the necessary staffing and resources are put into place.

A phased implementation would allow the Departments to begin employing the proposed process in an orderly and controlled manner and for a limited number of cases, giving USCIS the opportunity to work through operational challenges and ensure that each noncitizen placed into the process is given a full and fair opportunity to have any protection claim presented, heard, and properly adjudicated in full conformance with the law. Phased implementation would also have an immediately positive impact in reducing the number of individuals arriving at the southwest border who are placed into backlogged immigration court dockets, thus allowing the Departments to more quickly adjudicate some cases.

Given limited agency resources, the Departments anticipate first implementing this new process for certain non-detained family units. The Departments believe this is necessary as USCIS capacity is currently insufficient to handle all family unit referrals under this new proposed process. The Departments also anticipate limiting referrals under the initial implementation of this proposed rule to families apprehended in certain southwest border sectors or stations, as well as based on the family unit's final intended destination (*e.g.,* if the family unit is within a predetermined distance from the potential interview location). As the USCIS Asylum Division gains resources and builds capacity, the Departments anticipate that additional family unit cases and then single adult cases could be considered for processing pursuant to this phased implementation. Under this approach, it is likely that single adult cases would not be handled under the new process until a later phase of implementation. The Departments are seeking comments on what might be the appropriate factors for DHS to consider when determining which individuals to place into the new process during this period prior to full implementation.

Statutory and Regulatory Requirements

H. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives. If a regulation is necessary, these Executive orders direct that, to the extent permitted by law, agencies ensure that the benefits of a regulation justify its costs and select the regulatory approach that maximizes net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It explicitly draws attention to ''equity, human dignity, fairness, and distributive impacts,'' values that are difficult or impossible to quantify. All of these considerations are relevant here. This proposed rule has been designated as a ''significant regulatory action,'' and it is economically significant since it meets the $100 million threshold under section 3(f)(1) of Executive Order 12866. Accordingly, the Office of Management and Budget (''OMB'') has reviewed this regulation.

1. Summary

This proposed rule would change and streamline the overall adjudicatory process for asylum applications arising out of the expedited removal process. By reducing undue delays in the system, and by providing a variety of procedural safeguards, the rule protects equity, human dignity, and fairness.

A central feature of the regulation changes the respective roles of an IJ and an asylum officer during proceedings for consideration of asylum applications after a positive credible fear determination. Notably, IJs will retain their existing authority to review de novo the negative determinations made by asylum officers in a credible fear proceeding. In making credible fear determinations, asylum officers will return to evaluating whether there is a significant possibility that the noncitizen could establish eligibility for asylum, withholding of removal, or CAT

[61] *See Immigrant Legal Res. Ctr.* v. *Wolf,* 491 F. Supp. 3d 520, 526 (N.D. Cal. 2020) (enjoining the rule); *Nw. Immigrant Rts. Project* v. *U.S. Citizenship & Immigr. Servs.,* 496 F. Supp. 3d 31, 41 (D.D.C. 2020) (same). On January 29, 2021, USCIS published a **Federal Register** notice indicating that the agency was continuing to comply with these court orders. U.S. Citizenship and Immigration Services Fee Schedule and Changes to Certain Other Immigration Benefit Request Requirements, 86 FR 7493, 7493 (Jan. 29, 2021).

[62] DHS lists a notice of proposed rulemaking for new fees on the Spring 2021 Unified Regulatory Agenda with a proposed publication date of November 2021. Office of Management and Budget, *Spring 2021 Unified Regulatory Agenda* (June 11, 2021), *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202104&RIN=1615-AC68.*

protection for possible referral to a full hearing of the claim and the noncitizen will still be able to seek review of that negative credible fear determination before the IJ.

Asylum officers will take on a new role of fully adjudicating all protection claims made by some noncitizens who have received a positive credible fear determination, a role previously carried out only by IJs as part of a proceeding under section 240 of the INA. Under the rule, IJs will take on a new authority to review de novo an asylum officer's denial of these claims.

The population of individuals likely to be affected by this proposed rule's provisions are individuals for whom USCIS completes a credible fear screening. The average annual number of credible fear screenings for FY 2016 through 2020 completed by USCIS is broken out as 59,280 positive credible fear determinations and 12,083 negative credible fear determinations, for a total of 71,363 individuals with credible fear determinations. DHS expects that this population will be affected by the rule in a number of ways, which may vary from person to person depending on (1) whether the individual receives a positive credible fear determination, and (2) whether the individual's asylum claim is granted or denied by the asylum officer. In addition, because of data constraints and conceptual and empirical challenges, we can provide only a partial monetization of the impacts to individuals. For example, asylum seekers who establish credible fear may benefit from having their asylum claims adjudicated potentially much sooner than they otherwise would. Those who are granted asylum sooner may have a possible path to citizenship in the United States. This is obviously a benefit in terms of human dignity and equity, but it is a benefit that is not readily monetized. Asylum seekers who establish credible fear may also benefit from filing cost savings and earlier labor force entry. DHS has estimated this impact on a per-person workday basis.

As it relates to the Government and USCIS costs, the planned human resource and information-related expenditures required to implement this proposed rule are monetized as real resource costs. These estimates are developed along three population bounds, ranging from 75,000 to 300,000 credible fear screenings to account for possible variations in future years. Furthermore, the possibility of parole for more individuals—applied on a case-by-case basis—could lower the cost to the Government per person processed. DHS has also estimated potential employment tax impacts germane to earlier labor force entry, likewise on a per-person workday basis. Such estimates made on a per-person basis reflect a range of wages that the impacted individuals could earn. The per-person, per-work day estimates are not extended to broader monetized impacts due to data constraints.

An important caveat to the possible benefits to asylum applicants who establish a credible fear introduced above and discussed more thoroughly in the analysis is that it is expected to take time to implement this rule. Foremost, DHS expects the resourcing of this proposed rule to be implemented in a phased approach. Further, while up-front expenditures to support the changes from this proposed rule based on planning models are high, the logistical and operational requirements of this proposed rule may take time to fully implement. For instance, once USCIS meets its staffing requirements, time will be required for the new asylum staff to be trained for their positions, which may occur over several months. As a result, the benefits to applicants and the Government may not be realized immediately.

To develop the monetized costs of the proposed rule, DHS relied on a low, midrange, and high population bound to reflect future uncertainty in the population. In addition, resources are partially phased in over FYs 2022 and 2023, as a full phasing in of resources, potentially up to 2026, is not possible at this time. The average annualized cost of this proposed rule ranges from $180.4 million to $1.0 billion, at a 3 percent discount rate, and from $179.5 million to $995.8 million, at a 7 percent discount rate. At a 3 percent discount rate the total 10-year costs could range from $1.5 billion to $8.6 billion, with a midpoint of $3.9 billion. At a 7 percent discount rate, the total 10-year costs could range from $1.3 billion to $7.0 billion, with a midpoint of $3.2 billion.

A summary of the potential impacts of this proposed rule are presented in Table 1 and are detailed more in the ensuing analysis. Where quantitative estimates are provided, they apply to the midpoint figure (applicable to the wage range or the population range).

TABLE 1—SUMMARY OF THE POTENTIAL IMPACTS OF THIS PROPOSED RULE

Entities impacted	Annual population estimate	Potential impacts
Individuals who receive a positive credible fear determination.	USCIS provides a range from 75,000 to 300,000 total individuals who receive credible fear determinations. In recent years (*see* Table 3), approximately 83.1% of individuals screened have received a positive credible fear determination.	• Maximum potential cost-savings to applicants of Form I–589 of $364.86 per person. • Potential cost-savings to applicants of Form I–765 of $370.28 per person. • Potential early labor earnings to asylum applicants who obtain an employment authorization document (''EAD'') of $225.44 per person per workday; this impact could potentially constitute a transfer from workers in the U.S. labor force to certain asylum applicants. We identified three factors that could drive this impact of early entry to the labor force: (i) More expeditious grants of asylum, thereby authorizing work incident to status; and (ii) a change in timing apropos to the ''start'' time for filing for work authorization—the ''EAD-clock'' duration is not impacted, but it ''shifts'' to an earlier starting point. On the other hand, some individuals who would have reached the ''EAD-clock'' duration for a pending asylum application and obtained work authorization under the current regulations may not obtain work authorization if their asylum claim is promptly denied. • Individuals could not have to wait lengthy times for a decision on their protection claims. This is a benefit in terms of equity, human dignity, and fairness. • Some individuals could benefit from de novo review by an IJ of the asylum officer's denial of their asylum claim.

TABLE 1—SUMMARY OF THE POTENTIAL IMPACTS OF THIS PROPOSED RULE—Continued

Entities impacted	Annual population estimate	Potential impacts
Individuals who receive a negative credible fear determination.	USCIS provides a range from 75,000 to 300,000 total individuals who receive credible fear determinations. In recent years (*see* Table 3), approximately 16.9% of individuals screened have received a negative credible fear determination.	• Beneficiaries of the new process may benefit in terms of human dignity if paroled from detention while awaiting their credible fear interview and determination.
DHS–USCIS	N/A	• Parole may result in more individuals failing to appear for hearings. • At a 7 percent discount rate, the resource costs could be $451.2 million annually, based on up-front and continuing expenditures. • It is reasonable to assume that there could be a reduction in Form I–765 filings due to more expeditious adjudication of asylum claims, but there could also be countervailing influences; hence, the volume of Form I–765 filings (writ large or for specific classes related to asylum) could decrease, remain the same, or increase—these reasons are elucidated in the analysis. • A net change in Form I–765 volumes overall could impact the incumbent volume of biometrics and biometrics services fees collected; however, based on the structure of the USCIS Application Support Center (''ASC'') biometrics processing contract, it would take a significant change in such volumes for a particular service district to generate marginal cost increases or savings per biometrics submission.
EOIR	555 current IJs as well as support staff and other personnel.	• EOIR only reviews on appeal and will no longer adjudicate asylum claims raised in expedited removal in the first instance. • Allows EOIR to focus efforts on other priority work and reduce its substantial current backlog. • There could be non-budget related cost-savings if the actual time worked on a credible fear case decreases in the transfer of credible fear cases to USCIS.
Support networks for asylum applicants who receive a positive credible fear determination.	Unknown	• To the extent that some applicants may be able to earn income earlier than they otherwise could currently, burdens to the support network of the applicant may be lessened. This network could include public and private entities and family and personal friends, legal services providers and advisors, religious and charity organizations, State and local public institutions, educational providers, and non-governmental organizations (''NGOs'').
Other	Unknown	• There could be familiarization costs associated with this proposed rule; for example, if attorneys representing the asylum client reviewed the rule, the cost would be about $69.05 per hour. • There may be some labor market impacts as some asylum seekers that currently enter the labor market with a pending asylum application would no longer be entering the labor market under this proposed rule if they get a negative decision on their asylum claim sooner. Applicants with a positive credible fear determination may enter the labor market sooner under this proposed rule than they would currently. • Tax impacts could accrue to the earlier entry of some individuals into the labor market; we estimate employment tax impacts could be $34.49 per person on a workday basis.

In addition to the impacts summarized above, and as required by OMB Circular A–4, Table 2 presents the prepared accounting statement showing the costs and benefits associated with this regulation.[63]

TABLE 2—OMB A–4 ACCOUNTING STATEMENT

[$ millions, 2020]

Time Period: 2022–2031				
Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation
Benefits				
Monetized benefits	Not estimated	Not estimated	Not estimated	
Annualized quantified, but un-monetized, benefits	N/A	N/A	N/A	
Unquantified benefits	Some individuals may benefit from filing cost-savings related to Forms I–589 and I–765. Early labor market entry would be beneficial in terms of labor earnings to the applicant, but also because it could reduce burdens on the applicants' support networks. Benefits driven by increased efficiency would enable some asylum-seeking individuals to move through the asylum process more expeditiously than through the current process, with timelines potentially decreasing significantly, thus promoting both human dignity and equity. Adjudicative efficiency gains and expanded parole could lead to individuals spending less time in detention, which would benefit the Government and the affected individuals.			Regulatory Impact Analysis (''RIA'').

[63] OMB, *Circular A–4* (2003), *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf* (last viewed June 1, 2021).

TABLE 2—OMB A–4 ACCOUNTING STATEMENT—Continued
[$ millions, 2020]

Time Period: 2022–2031				
Category	Primary estimate	Minimum estimate	Maximum estimate	Source citation
	Another benefit is that EOIR would not see the cases in which USCIS grants asylum, which we estimate as at least a 15 percent reduction in their overall credible fear workload. This stands to mitigate the backlog of cases pending in immigration courts. Additionally, this benefit would extend to individuals granted or denied asylum faster than if they were to go through the current process with EOIR. Depending on the individual case circumstances, this proposed rule would mean that such noncitizens would likely not remain in the United States—for years, potentially—pending resolution of their claims, and those who qualify for asylum would be granted asylum several years earlier than they are under the present process. The anticipated operational efficiencies from this proposed rule may provide for prompt grant of relief or protection to qualifying noncitizens and ensure that those who do not qualify for relief or protection are removed more efficiently than they are under current rules.			
Costs				
Annualized monetized costs for 10-year period between 2021 and 2030 (discount rate in parenthesis).	(3%) $453.8	$180.4	$1,002.4	RIA.
	(7%) $451.2	179.5	995.8	RIA.
Annualized quantified, but un-monetized, costs	• Potential cost-savings applicable to Form I–589 of $338.86 per person. • Potential cost-savings applicable to Form I–765 of $377.32 per person. • Potential early labor earnings of $225.44 per person per workday. • The transfer of cases from EOIR to USCIS would allow resources at EOIR to be directed to other work, and there is a potential for cost-savings to be realized as it relates to credible fear processing specifically, if the average cost of work-time spent on cases by USCIS asylum officers would be lower than at EOIR currently. These would not be budgetary cost-savings, and USCIS has not made a one-to-one time- and cost-specific comparison between worktime actually spent on a case at EOIR and USCIS.			RIA.
Qualitative (unquantified) costs	N/A			
Transfers				
Annualized transfers:	Potential labor earnings that would accrue to credible fear asylum applicants that enter the labor market earlier than they would currently.			
From whom to whom?	Potentially a distributional economic impact in the form of a transfer to asylum applicants who enter earlier than they would currently from others in the U.S. workforce.			
Miscellaneous analyses/category	N/A			RIA.
Effects on State, local, or Tribal governments	N/A			
Effects on small businesses	This proposed rule does not directly regulate small entities, but rather individuals.			RFA.
Effects on wages	None			
Effects on growth	None			

2. Background and Purpose of the Rule

The purpose of this proposed rule is to address the rising number of apprehensions at or near the southwest border and the ability of the U.S. asylum system to fairly and efficiently handle protection claims made by those encountered. The proposed rule streamlines and simplifies the adjudication process for certain individuals who are encountered at or near the border, placed into expedited

removal, and determined to have a credible fear of persecution or torture, with the aim of adjudicating applications for asylum, statutory withholding of removal, and CAT protection in a timelier fashion and in conformity with procedural protections against erroneous denial of relief or protection. The principal facet of the rule is to transfer the initial responsibility for adjudicating asylum, statutory withholding of removal, and CAT protection applications from IJs to USCIS asylum officers for individuals within expedited removal proceedings who receive a positive credible fear determination.

The proposed rule also would broaden the circumstances in which individuals making a fear claim during the expedited removal process could be considered for parole on a case-by-case basis prior to a positive credible fear determination being made. For such individuals, parole could be granted as an exercise of discretion not only where required to meet a medical emergency or for a legitimate law enforcement objective, but also where detention is unavailable or impracticable.

DHS intends to apply this proposed rule only to recently-arrived individuals who are subject to expedited removal—*i.e.,* adults and families. The proposed rule does not apply to unaccompanied children, as they are statutorily exempt from being placed into expedited removal. It also does not apply to individuals already residing in the United States and whose presence in the United States is outside the coverage of noncitizens designated by the Secretary as subject to expedited removal. The proposed rule also does not apply to (1) stowaways or (2) noncitizens who are present in or arriving in the Commonwealth of the Northern Mariana Islands who are determined to have a credible fear. They will continue to be referred to asylum/withholding-only hearings before an IJ under 8 CFR 208.2(c). Finally, it is not legally required that a noncitizen amenable to expedited removal after the effective date of the rule be placed in the non-adversarial review process described in this proposed rule. Rather, DHS generally, and USCIS in particular, retains discretion to issue an NTA to a covered noncitizen in expedited removal proceedings to instead place them in section 240 removal proceedings at any time after they are referred to USCIS for a credible fear determination. *See Matter of E-R-M- & L-R-M-,* 25 I&N Dec. at 523; *see also* 8 CFR 1208.2(c).

In this section we provide some data and information relevant to the ensuing discussion and analysis of the potential impacts of the rule. We first present USCIS data followed by EOIR data. Table 3 shows USCIS data for the Form I–589 and credible fear cases for the five-year span from FY 2016 through FY 2020.

TABLE 3—USCIS FORM I–589, APPLICATION FOR ASYLUM AND FOR WITHHOLDING OF REMOVAL, AND CREDIBLE FEAR DATA

[FY 2016–2020] [64]

FY	Form I–589 receipts		Credible fear completions			Total credible fear cases [65]
	Initial receipts	Pending receipts	Positive screen	Negative screen	All completions	
2016	115,888	194,986	73,081	9,697	82,778	94,048
2017	142,760	289,835	60,566	8,245	68,811	79,842
2018	106,041	319,202	74,677	9,659	84,336	99,035
2019	96,861	349,158	75,252	16,679	91,931	102,204
2020	93,134	386,014	12,824	16,134	28,958	30,839
Total	554,684	N/A	296,400	60,414	356,814	405,968
5-year Average	110,937	307,839	59,280	12,083	71,363	81,194

Source: USCIS Office of Performance and Quality (OPQ), and USCIS Refugee, Asylum, and International Operations (RAIO) Directorate, CLAIMS 3 database, Global received May 11, 2021.

[64] In FY 2020, the credible fear filings are captured in the Form I–870, ''Record of Determination/Credible Fear Worksheet.'' As part of the credible fear screening adjudication, USCIS Asylum Officers prepare Form I–870, Record of Determination/Credible Fear Worksheet. This worksheet includes biographical information about the applicant, including the applicant's name, date of birth, gender, country of birth, nationality, ethnicity, religion, language, and information about the applicant's entry into the United States and place of detention. Additionally, Form I–870 collects sufficient information about the applicant's marital status, spouse, and children to determine whether they may be included in the determination. Form I–870 also documents the interpreter identification number of the interpreter used during the credible fear interview and collects information about a relative or sponsor in the United States, including their relationship to the applicant and contact information. In previous years credible fear filings included the Form I–867, ''Credible Fear Referral.'' Prior to FY 2020, the USCIS Asylum Division electronically received information about credible fear determinations through referral documentation provided by U.S. Customs and Border Protection. The referral documentation includes a form containing information about the applicant: Form I–867, Credible Fear Referral.

[65] The credible fear total receipts are larger than the sum of positive and negative determinations because the latter apply to ''completions,'' referring to cases forwarded to EOIR, and thus exclude cases that were administratively closed.

As can be seen from Table 3, the Form I–589 pending case number has grown steadily since 2016, and as of May 11, 2021, was 400,200, which is well above the five-year average of 307,839. Over that same period, the majority, 83.1 percent, of completed credible fear screenings were positive, while 16.9 percent were negative.[66]

In addition to the credible fear case data presented in Table 3, USCIS data and analysis can provide some insight concerning how long it has taken for the credible fear screening process to be completed. As detailed in this preamble, while this proposed rule's primary concern is the length of time before incoming asylum claims are expected to be adjudicated by EOIR, changes to USCIS processes enabled by this proposed rule (including, for example, improved systems for conducting credible fear interviews for individuals who are not in detention facilities) are also expected to reduce processing times for credible fear cases. Table 4

[66] Calculation: Positive completions total 296,400/total completions (296,400 + 60,414) = 296,400/356,814 = 0.831 × 100 = 83.1 percent (rounded); negative completions total 60,414/total completions (356,814) = 0.169 × 100 = 16.9 percent (rounded).

provides credible fear processing durations at USCIS.

TABLE 4—CREDIBLE FEAR TIME DURATIONS FOR DETAINED AND NON-DETAINED CASES

[In average and median days, FY 2016–2021]

FY	Screen	Detained		Non-detained	
		Average	Median	Average	Median
2016	Positive	23.3	13	290.6	163.0
	Negative	34	26	197.1	80.5
2017	Positive	23.3	13	570.1	407.0
	Negative	34.2	25	496.1	354.0
2018	Positive	22.6	16	816.2	671.0
	Negative	32.3	25	811.7	668.0
2019	Positive	35.6	24	1230.9	1082.0
	Negative	44.7	33	1067.3	959.0
2020	Positive	37.2	20	1252.7	1065.0
	Negative	30.3	16	1311.2	1247.0
2021	Positive	25.6	15	955.3	919.0
	Negative	29.8	17	1174.0	1109.0

Source: Data and analysis provided by USCIS, RAIO Directorate, SAS PME and data-bricks databases, received May 11, 2021.
* FY 2021 includes partial fiscal year data as of May 2021.

Table 4 reports the ''durations,'' defined as the elapsed days from date of apprehension to forwarding of the credible fear screening process at USCIS, in both averages and medians. USCIS has included the most recent figure, which is applicable to May 11, 2021. The total time for cases from apprehension to adjudication by EOIR can be found by summing the times in Table 4 with the times in Table 6, below.

The data in Table 4 are not utilized to develop quantitative impacts, but rather are intended to build context and situational awareness. There are several key observations from the information presented. Foremost, there is a substantial difference between durations for the detained and the non-detained populations. The existence of a gap is expected because USCIS can interface with detained individuals rapidly. However, the gap has grown over time; in 2016 the duration for positive-screened processing was 12.5 times greater, but by 2021 it had grown to a factor of nearly 40.[67] Second, and relatedly, there was a substantial duration rise through 2019 for both detained and non-detained screenings, although there has been a recent pullback. Furthermore, the duration for negative screenings is lower across the board than for positive screenings—as of the most recent data point the duration was about 19 percent lower for negative screened cases.[68] It is also seen that the 2021 average durations for detained cases are relatively close to 2016–2018 levels, with this series witnessing a spike in 2019.

Since some of the EOIR data are presented in medians, we note that the median durations are lower than the means for both screened types. This indicates that a small number of cases take an exceptionally long time to resolve, resulting in large outlier data points that skew the mean upwards. It is noted that for non-detained cases, the gap between median and mean duration is relatively consistent up to 2021, but the mean and median converge toward the end of the period; this feature of the data could indicate that fewer outlier durations were represented in the data.

It is possible that the proposed rule may impact employment authorization applications and approvals in terms of volume and timing. While we cannot predict the net change in filings for the Form I–765 categories, we present data on initial filings and approvals for three asylum-related categories (Table 5). As a result of the rule, there could be substitutions in Form I–765 categories from the (c)(8), Applicant for Asylum/Pending Asylum, into the (a)(5), Granted Asylum Under Section 208, and (a)(10) Granted Withholding of Removal/243 (H) categories, in Table 5.

TABLE 5—USCIS FORM I–765 APPLICATION FOR EMPLOYMENT AUTHORIZATION INITIAL RECEIPTS AND APPROVALS RELATED TO ASYLEE CATEGORIES

[FY 2016–2020]

FY	EAD category (a)(5) Granted Asylum Under Section 208		EAD category (c)(8) Applicant for Asylum/Pending Asylum		EAD category (a)(10) Granted Withholding of Removal/243 (H)	
	Initial receipts	Approvals	Initial receipts	Approvals	Initial receipts	Approvals
2016	29,887	27,139	169,970	152,269	2,008	1,621
2017	32,673	29,648	261,782	234,053	1,936	1,076
2018	38,743	39,598	262,965	246,525	1,733	1,556
2019	47,761	41,288	216,038	177,520	2,402	2,101

[67] Calculations: For 2016, 290.6 average days/23.3 average days = 12.5; for 2021, 1174.0 average days/25.6 average days = 39.4.

[68] Calculation: [1 – (955.3 days/1174.0 days)] = .186, rounded to .19.

TABLE 5—USCIS FORM I–765 APPLICATION FOR EMPLOYMENT AUTHORIZATION INITIAL RECEIPTS AND APPROVALS RELATED TO ASYLEE CATEGORIES—Continued

[FY 2016–2020]

FY	EAD category (a)(5) Granted Asylum Under Section 208		EAD category (c)(8) Applicant for Asylum/Pending Asylum		EAD category (a)(10) Granted Withholding of Removal/243 (H)	
	Initial receipts	Approvals	Initial receipts	Approvals	Initial receipts	Approvals
2020	31,931	36,334	233,864	183,820	3,318	2,554
5-year total	180,995	174,007	1,144,619	994,187	11,397	8,908
Average	36,199	34,801	228,924	198,837	2,279	1,782

Source: USCIS, Office of Performance and Quality (OPQ), CLAIMS 3, data obtained May 11, 2021, *https://www.uscis.gov/sites/default/files/document/reports/I-765_Application_for_Employment_FY03-20.pdf* (last visited August 9, 2021).

Across the three relevant employment authorization categories, the total of the averages is 267,402 initial EADs, with a total of 235,420 approved EADs.

Having presented information and data applicable to USCIS specifically, we now turn to EOIR data and information. Table 6 presents average and median processing times for EOIR to complete credible fear cases originating from the credible fear screening process, positive and negative, and detained and non-detained (the processing time represents that time between when a case is lodged in EOIR systems and a final decision). Note that the ''initial case completions'' are not directly comparable to USCIS completions (Table 3) in terms of annual volumes for two primary reasons. First, there can be timing differences in terms of when a credible fear case is sent to EOIR and when it is lodged in their processing systems. Second, not all individuals determined to have a credible fear follow up with their case with EOIR, and some cases filed are administratively closed. Therefore, as a general rule, case completions by EOIR would be necessarily lower than ''completions'' at USCIS.

TABLE 6—EOIR TIME DURATION METRICS, DAYS, AND COMPLETIONS FOR CASES WITH A CREDIBLE FEAR ORIGIN

FY	Average processing time	Median processing time	Initial case completions
6A. Average and Median Processing Times (in Days) for Form I–862 Initial Case Completions With a Credible Fear Origin			
2016	413	214	16,794
2017	447	252	26,531
2018	648	512	33,634
2019	669	455	55,404
2020	712	502	33,517
2021–March 31, 2021 (years) *	1,078 (2.95)	857 (2.35)	6,646
6B. Average and Median Processing Times (in Days) for Form I–862 Initial Case Completions With a Credible Fear Origin and Only an Application for Asylum, Statutory Withholding of Removal, and Withholding and Deferral of Removal Under the CAT			
2016	514	300	7,519
2017	551	378	13,463
2018	787	690	19,293
2019	822	792	30,052
2020	828	678	21,058
2021–March 31, 2021 (years) *	1,283 (3.52)	1,316 (3.61)	3,730

Source: EOIR, Planning, Analysis, and Statistics Division (''PASD''), data obtained April 19, 2021.
* Current through March 31, 2021.

The FY 2021 data point reflects data through the start of FY 2021 to March 31, 2021, and we have included the current processing times in years for situational awareness. As Table 6 shows, there was an across-the-board jump in processing times in 2018, followed by a leveling off until 2021, when the processing times surged again.

3. Population

The population expected to be affected by this rule is the total number of credible fear completions processed annually by USCIS (71,363, *see* Table 3), split between an average of 59,280 positive-screen cases and 12,083 negative-screen cases. This can be considered the maximum, ''encompassing,'' population that could be impacted. However, we take into consideration larger populations to account for variations and uncertainty in the future population.

4. Impacts of the Rule

This section is divided into three modules. The first (A) focuses on impacts to asylum seekers, presented on a per-person basis. The second (B) discusses costs to the Federal Government, and the third (C) discusses other, possible impacts, including benefits.

i. Impacts to the Credible Fear Asylum Population

Under the change in procedures of this proposed rule, asylum applicants who have established a credible fear of persecution or torture would not be required to file Form I–589 with USCIS. Individuals in this population could accrue cost-savings relevant to this change. There is no filing fee for Form I–589, and the time burden is currently estimated at 12.0 hours per response, including the time for reviewing instructions, and completing and submitting the form.[69] With regard to cost-savings, DHS believes the minimum wage is appropriate to rely on as a lower bound, as the applicants would be new to the U.S. labor market. The Federal minimum wage is $7.25 per hour; however, in this proposed rule, we rely on the ''effective'' minimum wage of $11.80. As *The New York Times* reported, ''[t]wenty-nine states and the District of Columbia have state-level minimum hourly wages higher than the federal [minimum wage],'' as do many city and county governments. This *New York Times* report estimates that ''the effective minimum wage in the United States [was] $11.80 an hour in 2019.'' [70] Therefore, USCIS uses the ''effective'' minimum hourly wage rate of $11.80 to estimate a lower bound. USCIS uses a national average wage rate across occupations of $27.07 [71] to take into consideration the variance in average wages across States as an upper bound.

DHS accounts for worker benefits by calculating a benefits-to-wage multiplier using the most recent Bureau of Labor Statistics (''BLS'') report detailing the average employer costs for employee compensation for all civilian workers in major occupational groups and industries. DHS relies on a benefits-to-wage multiplier of 1.45 and, therefore, is able to estimate the full opportunity cost per applicant, including employee wages and salaries and the full cost of benefits such as paid leave, insurance, retirement, and other benefits.[72] The total rate of compensation for the effective minimum hourly wage is $17.11 ($11.80 × benefits burden of 1.45), which is 62.8 percent higher than the Federal minimum wage.[73] The total rate of compensation for the average wage is $39.25 ($27.07 × benefits burden of 1.45).

For applicants who have established a credible fear, the opportunity cost of 12 hours to file Form I–589 at the lower and upper bound wage rates is $205.32 (12 hours × $17.11) and $471.00 (12 hours × $39.25), respectively, with a midrange average of $338.16. In addition, form instructions require a passport-style photograph for each family member associated with the Form I–589 filing. The Departments obtain an estimate of the number of additional family members applicable via data on biometrics collections for the Form I–589. Biometrics information is collected on every individual associated with a Form I–589 filing, and the tracking of collections is captured in the USCIS Customer Profile Management System (''CPMS'') database. A query of this system reveals that for the five-year period of FY 2016 through FY 2020, an average of 296,072 biometrics collections accrued for the Form I–589 annually. Dividing this figure by the same five-year period average of 110,937 initial filings (Table 3) yields a multiplier of 2.67 (rounded).[74] Under the supposition that each photo incurs costs to applicants of $10,[75] there could be $26.70 in additional cost-savings at either wage bound.[76] The resulting cost savings per applicant from no longer having to file Form I–589 could range from $232.02 to $497.70, with a midrange of $364.86.[77]

Though these applicants would no longer be required to file Form I–589, DHS recognizes that applicants would likely expend some time and effort to prepare for their asylum interviews and provide documentation for their asylum claim under this rule as well. DHS does not know exactly how long, on average, an individual may spend preparing for their credible fear interviews under the proposed rule, and how that amount of time and effort would compare to the time individuals currently spend preparing for the credible fear interview. If the increased time were substantial—*i.e.,* above and beyond that currently earmarked for the asylum application process—lower cost-savings could result.

Additionally, asylum applicants with a positive credible fear determination would still submit biometrics to USCIS. Hence, for applicants that file a Form I–589, photos would be collected via this biometrics process for the credible fear determination as well as for the Form I–589 application. Under this proposed rule, there would be a change in process such that applicants would submit biometrics at an asylum office as opposed to an USCIS Application Support Center (''ASC''). As a result, there could be time- and travel-associated impacts driven by this change, but because the requirements remain largely the same, we do not attempt to quantify them. Specifically, the average distance and travel time is likely to differ between asylum offices and ASCs, thereby possibly impacting the direct travel (mileage) cost as well as the travel-time related opportunity costs. However, the Departments assume these differences would be negligible, and therefore we do not quantify them.

Under the proposed rule, asylum applicants who established a credible fear would be able to file for work authorization via the Form I–765, Application for Employment Authorization (''EAD''), while their asylum application is being adjudicated. We cannot say, however, whether the volume of Form I–765 EADs filed would increase or decrease in upcoming years due to this proposed rule. Currently, asylum applicants can file for an EAD under the asylum (c)(8) category while

[69] *See* Instructions for Form I–589, Application for Asylum and for Withholding of Removal, OMB No.1615–0067 (expires July 31, 2022), *https://www.uscis.gov/sites/default/files/document/forms/i-589instr.pdf* (last visited May 12, 2021).

[70] Ernie Tedeschi, *Americans Are Seeing Highest Minimum Wage in History (Without Federal Help),* The New York Times (Apr. 24, 2019), *https://www.nytimes.com/2019/04/24/upshot/why-america-may-already-have-its-highest-minimum-wage.html.* We note that with the wage level dated to 2019, we do not make an inflationary adjustment because the Federal minimum wage has not changed since then.

[71] For the average wage for all occupations, the Departments rely on statistics of the U.S. Department of Labor. *See* U.S. Dep't of Labor, Bureau of Labor Statistics (''BLS''), May 2020 National Occupational Employment and Wage Estimates, *https://www.bls.gov/oes/2020/may/oes_nat.htm#00-0000* (last visited May 13, 2021).

[72] The benefits-to-wage multiplier is calculated as follows: (Total Employee Compensation per hour)/(Wages and Salaries per hour) ($38.60 Total Employee Compensation per hour)/($26.53 Wages and Salaries per hour) = 1.454957 = 1.45 (rounded). *See* U.S. Department of Labor, BLS, Economic News Release, *Employer Cost for Employee Compensation (December 2020), Table 1. Employer Costs for Employee Compensation by Ownership* (Dec. 2020), *https://www.bls.gov/news.release/archives/ecec_03182021.pdf.* (last visited Mar. 31, 2021).

[73] The Federal minimum wage is $7.25 hourly, which burdened at 1.45 yields $10.51. It follows that: (($17.11 wage − $10.51 wage)/$10.51)) wage = 0.628, which rounded and multiplied by 100 = 62.8 percent.

[74] Calculation: Average I–589 biometrics collections 296,072/110,937 average initial I–589 filings = 2.67 (rounded). Data were obtained from the USCIS Immigration Records and Identity Services (''IRIS'') Directorate, via the CPMS database (data obtained May 7, 2021).

[75] The U.S. Department of State estimates an average cost of $10 per passport photo in their supporting statement for their Paperwork Reduction Act (PRA) submission for the *Application for a U.S. Passport,* OMB #1405–0004 (DS–11) (Feb. 8, 2011), *http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201102-1405-001* (see question #13 of the Supporting Statement).

[76] Calculation: $10 per photo cost × 2.67 photos per I–589 application = $26.70.

[77] Calculation: $205.32 + $26.70 = $232.02; $338.16 + $26.70 = $364.86; $471.00 + $26.70 = $497.70.

their asylum application is pending. Such applications are subject to a 365-day waiting period that commences when their completed Form I–589 is filed. Asylum applicants who establish a credible fear would still be subject to the 365-day waiting period.[78] Applicants would still be able to file for their EADs under the (c)(8) category. We analyze the impacts regarding the EAD filing in two steps, explaining first why filing volumes might decline and related impacts, and then why countervailing factors might mitigate such a decline.

A result of this proposed rule is that asylum applications for some individuals pursuant to this proposed rule could be granted asylum earlier than they would be under current conditions. Since an asylum approval grants work authorization incident to status and USCIS automatically provides an asylum-granted EAD ((a)(5)) after a grant of asylum by USCIS, some applicants may choose not to file for an EAD based on the pending asylum application under the expectation that asylum would be granted earlier than the EAD approval. This could result in cost savings to some applicants.

There is currently no filing fee for the initial (c)(8) EAD Form I–765 application, and the time burden is currently estimated at 4.75 hours, which includes the time associated with submitting two passport-style photos along with the application.[79] As stated earlier, the Department of State estimates that each passport photo costs about $10 each. Submitting two passport photos resulting in an estimated cost of $20 per Form I–765 application.

Because the (c)(8) EAD does not include or require, at the initial or renewal stage, any data on employment, and since it does not involve an associated labor condition application, we have no information on wages, occupations, industries, or businesses that may employ such workers. Hence, we continue to rely on the wage bounds (effective minimum and national average) developed earlier. At the wage bounds relied upon, the opportunity cost-savings are $81.27 (4.75 hours × $17.11 per hour), and $186.44 (4.75 hours × $39.25). When the $20 photo cost is included, the cost-savings would be $101.27 and $206.44 per applicant, respectively. However, some might choose to file for an EAD after being granted asylum, or even if they expect asylum to be granted earlier than the EAD approval, they may want to have documentation that reflects that they are employment authorized.

In the discussion of the possible file volume decline for the Form I–589, above, we noted that applicants and family members would continue to submit biometrics as part of their asylum claim, and that, as a result, there would not be costs or cost-savings changes germane to biometrics. For the Form I–765(c)(8) category, USCIS started collecting biometrics, and the associated $85 biometrics service fee, in October 2020.[80]

The submission of biometrics involves travel to an ASC for the biometric services appointment. In past rulemakings, DHS estimated that the average round-trip distance to an ASC is 50 miles, and that the average travel time for the trip is 2.5 hours.[81] The cost of travel also includes a mileage charge based on the estimated 50-mile round trip at the 2021 General Services Administration (''GSA'') rate of $0.56 per mile.[82] Because an individual would spend an average of 1 hour and 10 minutes (1.17 hours) at an ASC to submit biometrics,[83] summing the ASC time and travel time yields 3.67 hours. At the low- and high-wage bounds, the opportunity costs of time are $62.79 and $144.05.[84] The travel cost is $28, which is the per mileage reimbursement rate of 0.56 multiplied by 50-mile travel distance. Summing the time-related and travel costs generates a per-person biometrics submission cost of $90.79, at the low-wage bound and $172.05 at the high-wage bound.[85] While the biometrics collection includes the $85 service fee, fee waivers and exemptions are granted on a case-by-case basis (across all forms) that are immaterial to this proposed rule. Accordingly, not all individuals pay the fee. When the opportunity costs of time for filing Form I–765 ($101.27 and $206.44, respectively) are added to the opportunity costs of time and travel for biometrics submissions ($90.79 and 172.05), the total opportunity cost of time to file Form I–765 and submitting biometrics are $192.07 and $378.49, respectively. For those who pay the biometrics service fee, the total costs are $277.07 and $463.49, respectively, with a midpoint of $370.28.[86] These figures represent the maximum per-person cost savings for those who choose not to file for an EAD.[87]

Having developed the cost-savings for applicants who do not file for an EAD, we now turn to countervailing factors against the potential decline in Form I–765 volumes. First, applicants will benefit from a timing change relevant to the EAD waiting period as it relates to the ''filing date'' of their asylum application that will allow an EAD to be filed earlier than it could be currently. USCIS allows for an EAD to be filed under 8 CFR 208.7 when an asylum application is pending and certain other conditions are met. Here, an asylum application would be pending when the credible fear determination is served on the individual as opposed to current practice under which the asylum application is lodged in immigration court. This change in timing could allow some EADs to be approved earlier for those who file for an EAD with a pending asylum application. In this

[78] A preliminary injunction in *Casa de Maryland, Inc.* v. *Wolf,* 486 F. Supp. 3d 928, 935 (D. Md. 2020), currently exempts members of certain organizations from this 365-day waiting period. Such members are subject to the 180-day Asylum EAD Clock.

[79] *See* Instructions for Form I–765, Application for Employment Authorization, OMB No. 1615–0040 (expires July 31, 2022), *https://www.uscis.gov/i-765* (last visited May 12, 2021).

[80] USCIS collects biometrics for Form I–765 (c)(8) submissions, but a preliminary injunction in *Casa de Maryland, Inc.* v. *Wolf,* 486 F. Supp. 3d 928, 935 (D. Md. 2020), currently exempts members of certain organizations from this biometrics collection.

[81] *See* Provisional Unlawful Presence Waivers of Inadmissibility for Certain Immediate Relatives, 78 FR 535 (Jan. 3, 2013).

[82] GSA mileage rate of $0.56. *See* GSA, *Privately Owned Vehicle Mileage Reimbursement Rates* (effective January 1, 2021), *https://www.gsa.gov/travel/plan-book/transportation-airfare-rates-pov-rates/privately-owned-vehicle-pov-mileage-reimbursement-rates* (last visited Aug. 4, 2021).

[83] *See* Instructions for Form I–765, Application for Employment Authorization, OMB No. 1615–0040 (expires July 31, 2022), *https://www.uscis.gov/i-765* (last visited May 12, 2021).

[84] Calculations: Total time burden 3.67 hours × total rate of compensation for the effective wage $17.11 = $62.79; total time burden 3.67 hours × total rate of compensation for the average wage $39.25 = $144.05.

[85] Calculations: Opportunity cost of time, effective wage $62.79 + travel cost $28 = $90.79; Opportunity cost of time, average wage $144.05 + travel cost $28 = $172.05.

[86] Calculations: $192.07 + biometrics services fee $85 = $277.07; $378.49 + biometrics services fee $85 = $463.49. While we have the overall count for biometrics for the period from October 1, 2020 through May 1, 2021, we do not know how many biometrics service fees were collected with these biometrics submissions; the fee data are retained by the USCIS Office of the Chief Financial Officer (''OCFO''), but the Form I–765 fee payments are not captured by eligibility class.

[87] There is a scenario that the Departments account for, though it is not likely to occur often. Currently, an asylum applicant might file for an EAD and have the EAD approved prior to the grant of asylum. It is possible that, under this proposed rule, asylum may be approved more expeditiously. At the time of the asylum grant, the individual will automatically receive a category (a)(5) EAD based on the grant of asylum; if they did file for an EAD, technically the filing costs associated with the EAD would be accounted for as sunk costs, since the (c)(8) EAD does not actually provide any benefit over the (a)(5) EAD. This would only apply if the proposed rule itself was responsible for the more expeditious asylum grant, and again, we only account for this possibility since it cannot be ruled out.

sense, the EAD remains the same in duration, but the starting point shifts to an earlier position for asylum applicants who will file for an initial EAD under the (c)(8) category.

DHS would begin to consider for parole on a case-by-case basis all noncitizens who have been referred to USCIS for a credible fear screening under the slightly expanded set of factors provided for in the proposed rule during the relatively short period between being referred to USCIS for a credible fear screening interview and the issuance of a credible fear determination. A parole grant does not constitute work authorization, however, and currently there are two Form I–765 classes, (a)(5), ''Granted Asylum Sec. 208,'' and (a)(10), ''Granted Withholding of Removal/243 (H),'' that could apply to applicants filing for asylum pursuant to the parole process under this proposed rule. In the past, some parolees under these categories have been able to obtain EADs sooner than they would if they were explicitly subject to the filing clock that applies to a pending Form I–589 application.

Given the two changes discussed above related to the EAD filings—(i) the change in timing under when an EAD can be filed; and (ii) the somewhat expanded set of circumstances under which certain credible fear cases may be considered for parole—some applicants may file for an EAD, even under the expectation that their asylum could be granted earlier, if they expect to receive an (a)(5) asylum granted EAD even sooner. In this sense, the potential for more rapid approvals of an EAD claim may be expected to provide a net pecuniary benefit even in light of a more expeditious asylum claim. Coupled with the expectation that some individuals may seek an EAD for the non-pecuniary benefit associated with its documentary value, we cannot determine if these countervailing influences might limit, or even completely absorb, any reductions in EAD filing for credible fear asylum applicants.

Regardless of whether, under the proposed rule, it is the more expeditious asylum or EAD approval that is binding for purposes of work authorization, individuals who enter the labor force earlier are able to earn income earlier. The assessments of possible impacts rely on the implicit assumption that credible fear asylum seekers who receive employment authorization will enter and be embedded in the U.S. labor force at the time of the proposed rule being effective. This assumption is justifiable for those whose labor force entry was effectuated by the EAD approval, as opposed to the grant of asylum. We believe this assumption is justifiable because applicants would generally not have expended the direct and opportunity costs of applying for an EAD if they did not expect to recoup an economic benefit. We also take the extra step of assuming these entrants to the labor force are employed. It is possible that some applicants who are eventually denied asylum are currently able to obtain work authorizations—approved while their asylum application was pending. We do not know what the annual or current scale of this population is, but it is an expected consequence of this proposed rule that such individuals would not obtain work authorizations in the future.

The impact is attributable to the difference in days between when asylum would be granted under the proposed rule and the current baseline. USCIS describes this distributional impact in more detail. Since a typical workweek is 5 days, the total day difference (''D'') can be scaled by 0.714 (5 days/7 days) and then multiplied by the average wage (''W'') and the number of hours in a typical work day (8) to obtain the impact, as in the formula: $D \times 0.714 \times W \times 8$. In terms of each actual workday, the daily distributional impact at the wage bounds are $136.88 ($17.11 × 8 hours) and $314.00 ($39.25 × 8 hours), respectively, on a per-person basis, with a midrange average of $225.44.

USCIS cannot expand the per-person per-day quantified impacts to a broader monetized estimate. Foremost, while Table 5 provides filing volumes for the asylum relevant EADs, we cannot determine how many individuals within this population would be affected. In addition, we cannot determine what the average day difference would be for any individual that could be impacted. To quantify the day difference, the Departments would need to simultaneously analyze the current and future interaction between the asylum grant and EAD approvals. Doing so for the current system is conceptually possible with a significant devotion of time and resources, but it is not possible to conduct a similar analysis for future cases without relying on a number of assumptions that may not be tractable. As a result, we cannot extend the per-person cost (in terms of earnings) basis to an aggregate monetized cost, even if USCIS knew either the population impacted or the day-difference average because an estimate of the costs would require both data points. The impact accruing to labor earnings developed above has the potential to include both distributional effects (which are transfers) and indirect benefits to employers.[88] The distributional impacts would accrue to asylum applicants who enter the U.S. labor force earlier than under current regulations, in the form of increased compensation (wages and benefits). A portion of this compensation gain might be transferred to asylum applicants from others that are currently in the U.S. labor force or eligible to work lawfully. Alternatively, employers that need workers in the U.S. labor market may benefit from those asylum applicants that receive their employment authorization earlier as a result of the proposed rule, gaining productivity and potential profits that the asylum applicant's earlier start would provide. Companies may also benefit by not incurring opportunity costs associated with the next-best alternative to the immediate labor the asylum applicant would provide, such as having to pay existing workers to work overtime hours, if in fact it was necessary or they were requested to work overtime.

We do not know what this next-best alternative may be for those companies. As a result, the Departments do not know the portion of overall impacts of this proposed rule that are transfers or benefits, but the Departments estimate the maximum monetized impact of this proposed rule in terms of a daily, per-person basis compensation. The extent to which the portion of impacts would accrue to benefits or transfers is difficult to discern and would depend on multiple labor market factors. However, we think it is reasonable to posit that the portion of impacts attributable to transfers would mainly be benefits, for the following reason: If there are both workers who obtain employment authorization under this rule and other workers who are available for a specific position, an employer would be expected to consider any two candidates to be substitutable to a high degree. There is an important caveat, however. There could be costs involved in hiring asylum seekers that are not captured in this discussion. As the U.S. economy recovers from the effects of the COVID–19 pandemic, there may be structural changes to the general labor market and to specific job positions that could impact the next-best alternatives that employers face. The Departments cannot speculate on how such changes in relation to the earlier labor market entry of some asylum applicants could

[88] Transfer payments are monetary payments from one group to another that do not affect total resources available to society. *See* OMB, Circular A–4 at 14, 38 (Sept. 17, 2003), *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf* (further discussion of transfer payments and distributional effects).

mitigate the beneficial impacts to employers.

The early possible entry into the labor force of some positive-screened credible fear asylum applicants is not expected to change the composition of the labor market, as it would affect only the timing, not the scale of the labor force. However, there may be some labor market impacts from asylum seekers who currently enter the labor market with a pending asylum application and who may no longer be entering the labor market under this proposed rule if they get a decision sooner on their asylum claim. As we cannot predict how many people would be impacted in such a way, we are not able to quantify this impact.

Furthermore, there may be tax impacts for the Government. It is difficult to quantify income tax impacts of earlier employment in the tight labor market scenario because individual tax situations vary widely, but the Departments estimate the potential contributory effects on employment taxes, namely Medicare and Social Security, which have a combined tax rate of 7.65 percent (6.2 percent and 1.45 percent, respectively).[89] With both the employee and employer paying their respective portion of Medicare and Social Security taxes, the total estimated accretion in tax transfer payments from employees and employers to Medicare and Social Security is 15.3 percent.[90] The Departments will rely on this total tax rate where applicable. The Departments are unable to quantify other tax transfer payments, such as for Federal income taxes and State and local taxes. As noted above, the Departments do not know how many individuals with a positive credible fear determination will be affected, and what the average day-difference would be, and therefore the Departments cannot make an informed monetized estimate of the potential impact. It therefore follows that the Departments cannot monetize the potential tax impacts of the proposed rule. However, the Departments can provide partial quantitative information by focusing on the workday earnings presented earlier. At the wage bounds, the workday earnings, at $136.88 and $314.00, are multiplied by 0.153 to obtain $20.94 and $48.04, respectively, with a midpoint of $34.49, which are the daily employment tax impacts per individual. The tax impacts per person would accrue to the total day-difference in earnings scaled by 0.714, to reflect a five-day workweek.

Having developed partial (based on an individual basis) monetized impacts of this proposed rule, there are two important caveats applicable to the population of asylum applicants who have received a positive credible fear determination. Foremost, as we detail extensively in the following module, there will be resource requirements and associated costs needed to make this proposed rule operational and effective. These changes will not occur instantaneously and may require months or even a year or more to fully implement. While existing USCIS resources will be able to effectuate changes for some individuals rather quickly, others (and thus the entire population from an average perspective) will face a time horizon in realizing the impacts—generally the impacts are beneficial as they include earlier asylum determinations, income gains, and possible filing cost-savings. While the time horizon would not be accounted as a cost to applicants, some may face a delay in realizing such benefits. Second, despite the possibility that some baseline EAD filers may choose not to file in the future, there could be mitigating effects to concomitant volume declines for Form I–765(c)(8) submissions.

In closing, we have noted that the impacts developed in this section apply to the population that receives a positive credible fear determination. Additionally, for the subset of this population that receives a negative asylum determination from USCIS, the possibility of de novo review of their claim by an IJ may benefit some applicants by affording another opportunity for review and approval of their asylum claims.

ii. Impacts to USCIS

a. Total Quantified Estimated Costs of Regulatory Changes

In this section, DHS discusses impacts to the Federal Government. Where possible, cost estimates have been quantified, otherwise they are discussed qualitatively. The total annual costs are provided only for those quantified costs that can be applied to a population.

Costs of Staffing to USCIS

USCIS will need additional staffing to implement the provisions presented in this proposed rule. The staffing requirement will largely depend on the anticipated volume of credible fear referrals. In addition to asylum officers, USCIS will require additional supervisory staff, operational personnel, and organizational structures commensurate with the number of asylum officers needed. USCIS anticipates an increased need for higher-graded field adjudicators and supervisors to implement the provisions of this proposed rule. Approximately 92 percent of the field asylum officers are currently employed at the GS–12 pay level or lower.[91] Under this model, USCIS will be assuming work normally performed by an IJ. EOIR data indicate the weighted average salary of $155,089 in FY 2021 for IJs, $71,925 for Judicial Law Clerks (''JLC''s), $58,394 for Legal Assistants, $132,132 for DHS Attorneys, and $98.51 per hour for interpreters.[92] Notably, entry-level IJs are required to adjudicate a wider array of immigration applications than asylum officers, and their decisions are not subject to 100 percent supervisory review, unlike current USCIS asylum officers. As such, under this proposed rule, USCIS asylum officers making final decisions on statutory withholding of removal and CAT protection cases would be at a GS–13 minimum, considering they will be conducting adjudications traditionally performed only by IJs.[93] In addition, first-line Supervisory Asylum Officers (''SAO''s) reviewing these decisions would be graded at a GS–14.[94] Currently, not all SAOs are at a grade GS–14. However, aligning all first-line SAOs to a GS–14 ensures operational flexibility and makes this position consistent with the similar work processes and functions performed by the first-line Supervisory Refugee Officer position.

Currently, USCIS refers all credible fear determinations to IJs at EOIR. This

[89] *See* Internal Revenue Service Publication 15, Circular E, *Employer's Tax Guide for Specific Information on Employment Tax Rates* (Feb. 4, 2021), *https://www.irs.gov/pub/irs-pdf/p15.pdf; see also* Market Watch, *More Than 44 Percent of Americans Pay No Federal Income Tax* (Sept. 16, 2018), *https://www.marketwatch.com/story/81-million-americans-wont-pay-any-federal-income-taxes-this-year-heres-why-2018-04-16.*

[90] Calculation: (6.2 percent Social Security + 1.45 percent Medicare) × 2 employee and employer losses = 15.3 percent total estimated tax loss to Government.

[91] In 2021, the base salary for a GS–12 ranges from $66,829, at step 1, up to $86,881, at step 10. *See* Office of Personnel Mgmt., *Salary Table 2021–GS Incorporating the 1% General Schedule Increase Effective January 2021, https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2021/GS.pdf* (last visited May 17, 2021).

[92] Weighted average base salaries across position, FY, and location are drawn from DOJ EOIR PASD analysis. Interpreter wages are presented hourly here, as these positions are paid differently and not always on an annual basis. In 2021, the base salary for a GS–15 step 3 is $117,824 and step 4 is $121,506. *See id.*

[93] In 2021, the base salary for a GS–13 step 1 is $79,468. *See id.*

[94] In 2021, the base salary for a GS–14 step 1 is $93,907. *See id.*

proposed rule continues to provide for the possibility that individuals who receive a negative credible fear determination may request review of the negative determination by an IJ at EOIR. Reviewing historical EOIR data on the amount of time required to complete a typical hearing with a credible fear origin and only an application for asylum, the median duration for credible fear merit plus master hearings from FY 2016 through FY 2020 is about 97 minutes, or 1.6 hours. Factoring in the EOIR weighted average salaries for the IJs, JLCs, DHS Attorneys, and interpreters required for EOIR to complete these hearings, we estimate the median cost to be $470.62 [95] per hearing over the same time period.

USCIS analyzes a range of credible fear cases to estimate staffing requirement costs. At a lower bound volume of 75,000 credible fear cases, USCIS assumes it would receive fewer credible fear cases compared to prior years (with the exception of FY 2020, which had a lower number of credible fear cases due to the COVID–19 pandemic and resulting border closures). A volume of 300,000 credible fear cases is an upper bound, based on the assumption that nearly all individuals apprehended will be placed into expedited removal for USCIS to process. As shown in Table 3, the lowest number of credible fear cases received within the last five years was 79,842 in FY 2017, while the highest was 102,204 in FY 2019. DHS recognizes that the estimated volume of 300,000 is nearly three times the highest annual number of credible fear cases received, but DHS presents this as an upper bound estimate to reflect the uncertainty concerning an operational limit to how many credible fear cases could be handled by the agency in the future. Inclusion of this unlikely upper bound scenario is intended only to present information concerning the potential costs should the agency consider an intervention at the highest end of the range. USCIS expects volumes to fall within the lower and upper bounds and therefore we also provide a primary estimate of 150,000 credible fear cases.[96]

USCIS has estimated the staffing resources it will need to implement this proposed rule. At the three volume levels of credible fear cases, USCIS plans to hire between 794 and 4,647 total new positions, with a primary estimate of 2,035 total new positions.[97] The estimated costs associated with payroll, non-payroll, and other general expenses including interpreter services, transcription services, facilities, physical security, information technology (''IT'') case management, and other contract, supplies, and equipment are anticipated to begin in FY 2022.

In developing the quantified costs of this proposed rule, there are likely to be initial costs associated with the hiring and training of staff, and those payroll and other costs associated with the additional personnel would continue in future years. Additionally, as was explained in Section G of this preamble, DHS expects a phased approach to implementation due to budgetary and logistical factors. The cost estimates developed below focus on three volume bands and are based on initial data and staffing models that captured initial implementation costs accruing to FY 2022 and FY 2023. It therefore partially captures the likely phasing of resourcing and costs, but not the full phasing that could extend into further years. As of the final drafting of this proposed rule, DHS does not have the appropriate data to integrate a full phasing of the implementation in terms of quantified resource costs. However, we do not believe a partial implementation significantly skews the expected costs of this proposed rule. We offer some additional comments concerning this phasing of implementation as it relates to costs at the conclusion of this analysis.

The Departments recognize that initial costs are likely to spill into future years depending on the pace of hiring, employee retention, obtaining and signing contracts (for interpreters, transcription, facilities), training, etc. For the remainder of FY 2021, DHS will finalize job descriptions, post new positions, and begin the hiring process to onboard some new Federal employees, and DHS will work to procure new contracts for interpreters, transcription, facilities, and security staff as its current fiscal situation allows. In FY 2022, the implementation costs are expected to range between $179.8 million and $952.4 million with a primary cost estimate of $438.2 million, assuming all staff is hired and corresponding equipment needs are purchased in the fiscal year. DHS recognizes that, operationally, it may take more time to attain the staffing postures described. However, we are not able to reliably predict those timelines due to the uncertain nature of the recruitment and onboarding processes. Any delay in hiring would reduce the first-year costs of implementation, as explained further below. The itemized planned resources are presented in Table 7.

TABLE 7—ESTIMATED USCIS FY 2022 FUNDING REQUIREMENTS BY VOLUME OF CREDIBLE FEAR REFERRALS

[$ in thousands]

	75k cases	150k cases	300k cases
(A) Staffing	$140,507	$355,175	$806,697
Payroll	113,602	285,983	648,257
Non-Payroll	26,905	69,192	158,440
(B) General Expenses	39,313	83,025	145,682
Interpreter Services	6,615	19,136	44,179
Transcription Services	9,366	26,697	37,362

[95] Estimate based on analysis provided by EOIR on May 19, 2021, of median digital audio recording (''DAR'') length data from all merit and master asylum hearings between FY 2016 and FY 2020. The five-year average estimated cost of hearings is based on 2,087 assumed hours per year for the IJ, JLC, and DHS attorneys' at the annual salaries shown, plus the hourly cost per interpreter. These annual values were multiplied by the respective sums of the annual median lengths of master and merit hearings for corresponding years to produce the five-year average cost per hearing of $470.62.

[96] Note that the primary estimate of 150,000 is not equal to the average of the lower volume of 75,000 credible fear cases and the upper volume of 300,000 credible fear cases. Rather, this primary estimate, based on OCFO modeling, represents the number of cases that the agency may reasonably expect. The OCFO volume levels were developed as a guide for several possible ranges that could be realized in the future, taking into account variations in the populations. The actual volume levels could be above or below these levels.

[97] Note that the primary estimate of 2,035 total new positions is not equal to the average of the lower 794 and upper bound 4,647 estimates. Rather, this primary estimate, based on a staffing allocation model, represents the number of staff in a mix of occupations at a mix of grade levels that the agency may need to hire to handle the volume of credible fear cases. The staffing is commensurate with OCFO model volume levels, which were developed as a guide for several possible ranges that could be realized in the future, taking into account variations in the populations. The actual volume levels and hence staffing could be above or below these levels.

TABLE 7—ESTIMATED USCIS FY 2022 FUNDING REQUIREMENTS BY VOLUME OF CREDIBLE FEAR REFERRALS—Continued

[$ in thousands]

	75k cases	150k cases	300k cases
Facilities	6,635	17,606	40,865
Physical Security	623	1,654	3,839
IT Case Management	12,500	12,500	12,500
Other Contract/Supplies/Equipment	3,574	5,432	6,937
Total	179,820	438,200	952,379

Source: USCIS Analysis from RAIO and OCFO, May 19, 2021.

In FY 2023, USCIS estimates costs between $164.7 million and $907.4 million, with a primary estimate of $413.6 million, as shown in Table 8. The reductions are mostly attributable to non-recurring, one-time costs for new staff and upgrades to IT case management systems, although a decline in costs pertaining to other contracts/supplies/equipment is also expected. The largest expected cost decrease is for IT case management, which is estimated to decline from $12.5 million in FY 2022 down to $4.375 million in FY 2023. Meanwhile, costs for interpreter and transcription services, facilities, and physical security are expected to rise in FY 2023 to factor in resource cost increases. For FY 2024 through FY 2031 of implementation, DHS expects resource costs to stabilize.

TABLE 8—ESTIMATED USCIS FY 2023 FUNDING REQUIREMENTS BY VOLUME OF CREDIBLE FEAR REFERRALS

[$ in thousands]

	75k cases	150k cases	300k cases
(A) Staffing	$133,427	$337,047	$766,159
Payroll	122,753	309,758	703,852
Non-Payroll	10,674	27,289	62,307
(B) General Expenses	31,267	76,554	141,249
Interpreter Services	6,813	19,710	45,504
Transcription Services	9,647	27,498	38,483
Facilities	6,834	18,134	42,091
Physical Security	642	1,704	3,954
IT Case Management	4,375	4,375	4,375
Other Contract/Supplies/Equipment	2,956	5,133	6,842
Total	164,694	413,601	907,408

Source: USCIS Analysis from RAIO and OCFO, May 19, 2021.

To estimate the costs for each category itemized in Tables 7 and 8, USCIS considered the inputs for each. On average, USCIS expects to hire the majority of new staff at the GS–13, step 1 level, and most of those hired will serve as asylum officers. As stated, these officers will be adjudicating statutory withholding of removal and withholding and deferral of removal under the CAT, so their pay will be higher than the current asylum officer pay, which is at a GS–12 level. Additionally, USCIS assumes step 1 because these employees are expected to be new to the position. Payroll costs also include Government contributions to non-pay benefits, such as healthcare and retirement. While payroll is the greatest estimated cost to hiring staff, non-payroll costs include training, equipping, and setting staff up with resources such as laptops, cell phones, office supplies, etc. For example, asylum officers are required to attend and successfully complete a multi-week residential training at a Federal Law Enforcement Training Center (''FLETC'') as a condition of their continued employment. The estimated cost per student (including FLETC enrollment costs, travel, etc.) is approximately $7,000. The cost of training would apply to any new asylum staff with ''officer'' in their title. To fully furnish and equip new employees, USCIS estimates a cost of $3,319 per asylum employee. Costs for new equipment would be largely commensurate with the increase in staffing levels.

In addition to costs associated with hiring new staff, DHS anticipates that it will need to both increase funding on existing contracts and procure new ones. As a result of this proposed rule, the need for interpretation services will increase as the number of asylum interviews USCIS performs rises. Current interpreter contracts cannot absorb this expected increase. Using current contracts, USCIS applied the current cost model to the estimated increase in case volumes in order to estimate costs. The facilities and physical security estimates were similarly based on current cost models that were expanded to account for additional employees. Additional contract support will also be needed for transcription services to create a written record of the asylum hearing, which staff are not currently employed by USCIS. To create transcription service estimates, USCIS applied EOIR's current cost model to the estimated increase in case volumes. DHS also anticipates costs associated with general expenses associated with miscellaneous contract, supplies, equipment, etc. commensurate with the increase in staff.

The timing of these costs will depend on the hiring timeline but are expected to commence in the first year. DHS recognizes that if it takes more than one year to hire and equip asylum employees, costs may instead be experienced in later years.

Costs to Information Technology Typology to USCIS

DHS is planning upgrades to internal management systems and databases as a requirement to implement this proposed rule. The estimated cost of these upgrades in FY 2022 is a one-time cost of $12.5 million that will impact virtually all processing and record-keeping systems at USCIS. The cost embodies funds for enhancements and refurbishment to the USCIS Global case management system that would support features such as: Ensuring transition of positive credible fear screening cases to the hearing process currently provided for affirmative asylum cases, support for withholding of removal and CAT adjudication features, non-detained scheduling enhancements, and capabilities to accept and provide review for electronic documents. The one-time cost also includes funds earmarked for teams that support integrations with other internal and external-facing systems, such as record-keeping, identity management and matching, reporting and analytics, applicant-facing interfaces, and other key USCIS systems, as well as external systems at Immigration and Customs Enforcement (''ICE''), CBP, or DOJ.[98]

Included in these $12.5 million costs are the costs to pay staff to make these upgrades. DHS estimates between 30 and 40 individuals, with a little over half contract personnel and the rest being Federal employees, would be involved (either part- or full-time) in the implementation of these enhancements through FY 2022. The Federal personnel would mainly comprise GS–14 and GS–15 level personnel and supervisory and management staff.

IT costs are expected to decline in FY 2023 and remain flat into the future at $4.375 million, which accounts for ongoing operations and maintenance costs. New features or upgrades are not expected at this time, but if they were to be needed in the future, those enhancements would result in additional costs not included here.

At present, DHS does not envision new facilities or additional structures being required from an IT perspective to implement this rule.

Importantly, this effort is expected to coincide with the first electronic processing of the Form I–589. Since this will be a significant change for processing asylum applications, unexpected errors or system changes could have impacts on this project as well. Additional dependencies rely on the availability of ICE, CBP, and DOJ systems to integrate with USCIS systems to provide for streamlined implementation. However, since this trajectory was enabled outside the scope of this rule, we do not attribute costs to it.

As described earlier in this analysis, we expect no net change regarding biometrics collection germane to asylum applications for individuals with a positive credible fear determination. We also detailed how factors concomitant to more expeditious EAD approvals make it impossible to estimate the magnitude or even direction in the net change in Form I–765 filing volumes (related to asylum or withholding of removal), and hence, commensurate biometrics collections (and fee payments).

However, given the parameters of this proposed rule, any net change in biometrics would not impose new costs to the Federal Government. The maximum monthly volume of biometrics submissions allowed by the current ASC contract is 1,633,968 and the maximum annual volume is 19,607,616.[99] The average number of individuals that submitted biometrics annually across all USCIS forms for the period FY 2016 through FY 2020 was 3,911,857.[100] Given that the average positive-screened credible fear population is 59,280 (Table 3), which is 1.52 percent of the biometrics volume, a volume change would not encroach on these bounds.

One scenario that we do account for relates to costs for a particular USCIS–ASC district. The DHS–ASC contract was designed to be flexible to reflect variations in benefit request volumes. The pricing mechanism within this contract embodies such flexibility. Specifically, the ASC contract is aggregated by USCIS district, and each district has five volume bands with its pricing mechanism. The incumbent pricing strategy takes advantage of economies of scale because larger biometrics processing volumes have smaller corresponding biometrics processing prices.[101] For example, Table 9 provides an example of the pricing mechanism for a particular USCIS district. This district incurs a monthly fixed cost of $25,477.79, which will cover all biometrics submissions under a volume of 8,564. However, the price per biometrics submission decreases from an average cost of $6.66 for volumes between a range of 8,565 and 20,524 to an average of $5.19 once the total monthly volume exceeds 63,503. In other words, the average cost decreases when the biometrics submissions volume increases (jumps to a higher volume band).

TABLE 9—EXAMPLE OF PRICING MECHANISM FOR A USCIS DISTRICT PROCESSING BIOMETRICS APPOINTMENTS, FY 2021

District X	Volume band	Minimum volume	Maximum volume	Costs
Baseline: Fixed price per month	AA	0	8,564	$25,477.79
Fixed price per person processed	AB	8,565	20,524	6.66
Fixed price per person processed	AC	20,525	31,752	5.94
Fixed price per person processed	AD	31,753	63,504	5.53
Fixed price per person processed	AE	63,505	95,256	5.19

Source: USCIS, IRIS Directorate, received May 10, 2021.

At the district level, since there are small marginal changes to costs in terms of volumes, it would take a substantial change in volumes for a particular district to mount a significant change in costs for that district. If biometrics

[98] While this plan tracks the FY 2022 time frame, variations in the pace of Federal and contractor hiring and retention during the performance period, unforeseen legal or other policy challenges to any electronic process, and the ability of relevant offices to truly operationalize minimal functionality give their own staffing constraints to handle manually any additional process automations, could delay some implementation into FY 2023.

[99] Data and information provided by the USCIS IRIS Directorate. The average annual biometrics volumes were obtained through the CPMS database. The cost contract reflects the most recent contract update, dated June 18, 2020.

[100] Data and information provided by USCIS IRIS Directorate, utilizing the CPMS database.

[101] Economies of scale is a technical term that is used to describe the process whereby the greater the quantity of output produced (in this case more biometric service appointments), the lower the per-unit fixed cost or per-unit variable costs to produce that output.

volumes increase on net, there could be small marginal, and hence, average, cost declines; in contrast, if volumes decline, some of those marginal costs could not be realized.

Having developed the costs to USCIS to implement the proposed rule, this section brings the total costs together as annual inputs that are discounted over a 10-year horizon. At the three population bounds, the inputs are captured in Table 10. The FY 2022 and FY 2023 costs are from Tables 7 and 8. For FY 2024 through FY 2031, human resources cost increases. As stated earlier, USCIS expects positions to be filled at step 1 for each GS level, so in years where employees remain at the same step for more than one year, these estimates account only for human resource cost increases (FYs 2026, 2028 and 2030). The general non-IT cost increases account for expected contract pricing increases. Finally, IT costs are expected to remain flat at $4.375 million into the future, which accounts for ongoing operations and maintenance costs.

TABLE 10—MONETIZED COSTS OF THE PROPOSED RULE TO USCIS

[In undiscounted 2020 dollars]

Time Period: FYs 2022–2031				
FY	Human resources	General (non-IT) cost	IT expenditure	Annual total
10A. Lower Population Bound (75k Annual Cases)				
2022	$140,507,000	$26,813,000	$12,500,000	$179,820,000
2023	133,427,000	26,892,000	4,375,000	164,694,000
2024	137,429,810	27,698,760	4,375,000	169,503,570
2025	141,552,704	28,529,723	4,375,000	174,457,427
2026	142,968,231	29,385,614	4,375,000	176,728,846
2027	147,257,278	30,267,183	4,375,000	181,899,461
2028	148,729,851	31,175,198	4,375,000	184,280,049
2029	153,191,747	32,110,454	4,375,000	189,677,201
2030	154,723,664	33,073,768	4,375,000	192,172,432
2031	159,365,374	34,065,981	4,375,000	197,806,355
10-year total	1,459,152,660	300,011,682	51,875,000	1,811,039,342
10B. Primary Population Bound (150k Annual Cases)				
2022	355,175,000	70,525,000	12,500,000	438,200,000
2023	337,047,000	72,179,000	4,375,000	413,601,000
2024	347,832,504	74,344,370	4,375,000	426,551,874
2025	358,963,144	76,574,701	4,375,000	439,912,845
2026	362,552,776	78,871,942	4,375,000	445,799,718
2027	374,154,464	81,238,100	4,375,000	459,767,565
2028	377,896,009	83,675,243	4,375,000	465,946,252
2029	389,988,681	86,185,501	4,375,000	480,549,182
2030	393,888,568	88,771,066	4,375,000	487,034,634
2031	406,493,002	91,434,198	4,375,000	502,302,200
10-year total	3,703,991,149	803,799,121	51,875,000	4,559,665,270
10C. High Population Bound (300k Annual Cases)				
.				
2022	806,697,000	133,182,000	12,500,000	952,379,000
2023	766,159,000	136,874,000	4,375,000	907,408,000
2024	793,740,724	140,980,220	4,375,000	939,095,944
2025	822,315,390	145,209,627	4,375,000	971,900,017
2026	830,538,544	149,565,915	4,375,000	984,479,459
2027	860,437,932	154,052,893	4,375,000	1,018,865,824
2028	869,042,311	158,674,480	4,375,000	1,032,091,791
2029	900,327,834	163,434,714	4,375,000	1,068,137,548
2030	909,331,112	168,337,755	4,375,000	1,082,043,868
2031	942,067,032	173,387,888	4,375,000	1,119,829,921
10-year total	8,500,656,879	1,523,699,492	51,875,000	10,076,231,371

The totals reported in Table 10 are collated in Table 11, with the 10-year discounted present values, each at a 3 percent and 7 percent discount rate. It is noted that since the cost inputs differ yearly, the average annualized equivalence costs are not uniform across discount rates.

TABLE 11—MONETIZED COSTS OF THE PROPOSED RULE

[In millions, 2020 dollars]

Population Level	Undiscounted	3-Percent		7-Percent	
	10-Year cost	10-Year cost	Annualized cost	10-Year cost	Annualized cost
Low	$1,811.0	$1,538.8	$180.4	$1,260.8	$179.5
Primary	4,559.7	3,871.3	453.8	3,168.9	451.2
High	10,076.2	8,550.3	1,002.4	6,993.7	995.8

As discussed in Section G of this preamble, and alluded to above, DHS expects this proposed rule to be implemented in phases. Our quantitative cost estimates are based on the assumption that the funding for the proposed rule is essentially available when the proposed rule takes effect, and that implementation costs are spread out over several years due to timing effects related to operational and hiring impacts. In reality, the effect of budgeting constraints and variations is expected to play a prominent role in the phasing in of the program. Our estimates thus account partially but not fully for such phasing. Incorporating additional phasing into resource allocation models is complex because of the interaction between initial and recurring costs, and DHS is not prepared at this time to attempt to fully phase in the costs quantitatively. Despite this limitation, we do not believe that the true costs would be significantly different than those presented above. A phased implementation would not skew the actual costs, but rather allocate them to different timing sequences. In fact, from a discounting perspective the present value of the costs would actually be lower if they were allocated to future years. DHS will continue to evaluate all pertinent data and information related to the phasing approach, and if tractable, may include refined estimates of the resource-related costs in the final rule.

DHS welcomes public comment on the phasing of costs and provides some additional, preliminary information here to supplement the cost data presented above. As of the final drafting of this proposed rule, DHS believes that through FY 2022 new staff positions can be funded with existing resources, which would support a minimum processing level of 50,000 annual family-unit cases. For the medium and high-volume bands of 150,000 and 300,000 annual cases, respectfully, DHS does not believe it can meet the full staffing requirements with current funding. Based on preliminary modelling, it could take up to three years to fully staff the medium-volume band and up to five years to staff the high-volume band.

If the medium- and high-volume bands of 150,000 and 300,000 were to be funded through a future fee rule, it would increase fees by an estimated weighted average of 13 percent and 26 percent respectively. This estimated increase would be attributable to the implementation of the asylum officer portions of the proposed rule only, and it is provided to show the magnitude of the impact that implementation of this proposed rule would have in addition to other increases in a future fee rule. The 13 percent or 26 percent estimated weighted average increase would be in addition to any changes in the IEFA non-premium budget.

b. Intra-Federal Government Sector Impacts

This proposed rule is expected to shift the initial case processing of some asylum and protection claims from EOIR to USCIS. We present this shift in case processing as new resource costs to USCIS since new staff would be employed, new IT expenditures acquired, etc. There will be new resource costs to the economy. The IJs at EOIR will continue to remain at DOJ and work on other priority matters not related to the high volume of asylum and protection claims processed through expedited removal. Some IJs are expected to continue to work on these claims through the do novo review process for appeals from the denial of asylum claims. Cases in which USCIS grants all relief under the proposed rule, however, would not receive further administrative review. Accordingly, every case granted relief or protection by USCIS would constitute a direct reduction in new cases that EOIR would have to adjudicate. Given EOIR's significant pending caseload of approximately 1.3 million cases, reducing the number of cases referred to EOIR by 11,250 to 45,000 will enable EOIR to focus its resources on addressing existing pending cases and reducing the growth of the overall pending caseload. A reduction in the pending case load may reduce the overall time required for adjudications since dockets would not have to be set as far into the future. This in turn will better enable EOIR to meet its mission of fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws, including granting relief or protection to noncitizens who qualify.

iii. Familiarization Costs, Benefits, and Transfers of Possible Early Labor Market Entry

It is likely that there will be familiarization costs associated with this proposed rule. It is expected that applicants and their support network will incur costs to read and develop an understanding of this proposed rule and the associated changes in process. If, for example, attorneys are utilized, the cost could be $101.07 [102] per hour, which is the average hourly wage for lawyers including the full cost of benefits.

The proposed rule offers other benefits to asylum applicants and the Government. Although we cannot parse out the transfer and costs portions explicitly, we believe that most of the distributional effects will comprise transfers that are beneficial to the asylum seekers (which we calculated on a per-person, workday basis), as opposed to costs. These transfers may impact the support network of the applicants. This network could include public and private entities, and it may comprise family and personal friends, legal services providers and advisors, religious and charity organizations, State and local public institutions, educational providers, and non-governmental organizations. To the extent that some applicants may be able to earn income earlier, burdens to this support network may be lessened. However, as described above, it will take time for USCIS to make the requisite resourcing and staffing changes needed to fully effectuate the changes under which the impacts could

[102] The average wage for lawyers is provided by the Department of Labor. *See* U.S. Dep't of Labor BLS, May 2021 National Occupational Employment and Wage Estimates, *https://www.bls.gov/oes/2020/may/oes_nat.htm#00-0000* (last visited May 13, 2021). Calculation: Average hourly wage for lawyers $69.70 × benefits burden of 1.45 = $101.07 (rounded).

be realized. In other words, there is likely to be a time horizon ranging from several months to more than a year for a sizeable portion of the impacts to begin to be realized. As a result, resources and efforts related to the applicants' support network can be expected to be maintained in the short to medium term.

In addition to the likely pecuniary benefits associated with early labor force entry, there could be other benefits as well. As a result of this proposed rule, DHS will begin to consider parole on a case-by-case basis for noncitizens who have been referred to USCIS for a credible fear screening under an expanded set of factors. Allowing for parole to be considered for more individuals in government custody could also provide resource redistribution to DHS in terms of shifting resources otherwise dedicated to the transportation and detention of these individuals and families. This will allow DHS to prioritize use of its limited detention bed space to detain those noncitizens who pose the greatest threats to national security and public safety, while facilitating the expanded use of the expedited removal process to order the removal of those who make no fear claim or who express a fear but subsequently fail to meet the credible fear screening standard after interview by an asylum officer (or, if applicable, by an IJ). However, DHS does not know how many future referrals for a credible fear screening will be eligible for parole; therefore, DHS cannot make an informed monetized estimate of the potential impact.

This proposed rule presents substantial costs for USCIS, especially as costs are expended to upgrade IT systems and begin hiring and training new staff. However, there are several expected qualitative benefits associated with the increased efficiency that would enable some asylum-seeking individuals claiming credible fear to move through the asylum process more expeditiously than through the current process. Under current timelines, it takes anywhere from eight months to five years for individuals claiming credible fear to reach a final asylum determination, whereas this proposed rule is expected to take 90 days in most cases for the initial determination, assuming no further review is sought. Greater efficiencies in the adjudicative process could lead to individuals spending less time in detention, which is a benefit to both the individuals and the Federal Government. Another benefit is that EOIR will not see the cases in which USCIS grants asylum, which we estimate as at least a 15 percent reduction in their overall credible fear workload.[103] DHS anticipates this will help to mitigate the number of cases pending in immigration court. Additionally, this benefit will extend to individuals granted or denied asylum faster than if they were to go through the current process with EOIR. For those credible fear cases that receive a positive screen but a denial of their asylum claim, USCIS recognizes that only certain cases seeking further review will reach EOIR. Therefore, the benefit to EOIR through this process could be greater than we are able to currently quantify.

Given EOIR's significant pending caseload, the reduction of credible fear cases it would process would enable EOIR to focus its resources on addressing existing pending cases and reducing the growth of the overall pending caseload. It would also allow EOIR to shift some resources to other work. We cannot currently make a one-to-one comparison between the work-time actually spent on a credible fear case between EOIR judges and USCIS asylum officers, but if there is a reduction in average work-times spent on cases, there could be cost savings to EOIR, though it is emphasized that these cost-savings would not be budgetary. The Departments welcome public comment on this topic and will integrate additional information into the final rule, as appropriate.

Further, this proposed rule may stop adding to the existing volumes for Form I–765 for pending asylum applicants. As explained above, if some individuals are granted asylum earlier than they would under current conditions, some applicants in this process may choose not to file for an EAD. This could result in cost savings to applicants, as discussed, and it would also reduce USCIS's adjudication burden.

Assuming DHS places those noncitizens into expedited removal proceedings, the Departments assess that it will be more likely that they would receive a more prompt adjudication of their claims for asylum, withholding of removal, or CAT protection than they would under the existing regulations. Depending on the individual circumstances of each case, this proposed rule could mean that such noncitizens would likely not remain in the United States—for years, potentially—pending resolution of their claims, and those who qualify for asylum will be granted asylum several years earlier than they are under the present process.

Overall, the anticipated operational efficiencies from this proposed rule may provide for a more prompt grant of protection to qualifying noncitizens and ensure that those who do not qualify for relief or protection are removed more efficiently than they are under current rules. Considering both quantifiable and unquantifiable benefits and costs, the Departments believe that the aggregate benefits of the rule would amply justify the aggregate costs.

I. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (''RFA''), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires Federal agencies to consider the potential impact of regulations on small businesses, small governmental jurisdictions, and small organizations during the development of their rules. 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 proposed rule does not directly regulate small entities and is not expected to have a direct effect on small entities. Rather, this proposed rule regulates individuals, and individuals are not defined as ''small entities'' by the RFA.[104] While some employers could experience costs or transfer effects, these impacts would be indirect. Based on the evidence presented in this analysis and throughout this preamble, DHS certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. DHS nonetheless welcomes comments regarding potential impacts on small entities, which DHS may consider as appropriate in a final rule.

J. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (''UMRA'') is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and Tribal governments. Title II of UMRA requires each Federal

[103] Based on the five-year (FY 2016 through FY 2020) average, an estimated 15 percent of EOIR asylum claims were granted asylum in cases originating with a credible fear claim. *See EOIR Adjudications Statistics: Asylum Decision and Filing Rates in Cases Originating with a Credible Fear Claim* (Apr. 19, 2021), *https://www.justice.gov/eoir/page/file/1062976/download* (last visited Aug. 4, 2021).

[104] *See* Public Law 104–121, tit. II, 110 Stat. 847 (5 U.S.C. 601 note). A small business is defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act. *See* 15 U.S.C. 632(a)(1).

agency to prepare a written statement assessing the effects of any Federal mandate in a proposed rule, or final rule for which the agency published a proposed rule that includes any Federal mandate that may result in $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector.

While this proposed rule is expected to exceed the $100 million expenditure in any 1 year when adjusted for inflation ($169.8 million in 2020 dollars based on the Consumer Price Index for All Urban Consumers (''CPI–U'')),[105] the Departments do not believe this proposed rule would impose any unfunded Federal mandates on State, local, and Tribal governments, in the aggregate, or on the private sector. The impacts are likely to apply to individuals, potentially in the form of beneficial distributional effects and cost savings. There could be tax impacts related to the distributional effects. However, these do not constitute mandates. Further, the real resource costs quantified in this analysis apply to the Federal Government and also are not mandates. Therefore, the Departments have not prepared a written statement.

K. Congressional Review Act

The Administrator of the Office of Information and Regulatory Affairs has determined that this proposed rule is a ''major rule'' within the meaning of Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act), 5 U.S.C. 804(2). Accordingly, it is expected that this rule, if enacted as a final rule, would be effective 60 days after the final rule's publication.

L. Executive Order 13132 (Federalism)

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

M. Executive Order 12988 (Civil Justice Reform)

This proposed rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

N. Family Assessment

The Departments have assessed this proposed action in accordance with section 654 of the Treasury General Appropriations Act, 1999, Public Law 105–277, Div. A. With respect to the criteria specified in section 654(c), the Departments determined that the proposed rule would not have any adverse impacts on family safety or stability. The proposed rule would allow families seeking asylum the possibility of parole from custody, thereby helping preserve family unity and safety given the COVID–19 pandemic. Additionally, this proposed rule would result in greater efficiencies in the expedited removal and asylum processes, providing speedier resolution of meritorious cases, and reducing the overall asylum system backlogs.

O. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

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

P. National Environmental Policy Act

The Departments analyze actions to determine whether the National Environmental Policy Act, Public Law 91–190, 42 U.S.C. 4321 through 4347 (''NEPA''), applies to them and, if so, what degree of analysis is required. *See* DHS, *Implementing the National Environmental Policy Act* (Directive 023–01, issued Oct. 31, 2014, and Instruction Manual, issued Nov. 6, 2014), *https://www.dhs.gov/publication/directive-023-01-rev-01-and-instruction-manual-023-01-001-01-rev-01-and-catex.* Both the DHS Directive 023–01 and the Instruction Manual establish the policies and procedures that DHS and its components use to comply with NEPA and the Council on Environmental Quality (''CEQ'') regulations for implementing NEPA, 40 CFR parts 1500 through 1508.

The CEQ regulations allow Federal agencies to establish, with CEQ review and concurrence, categories of actions (''categorical exclusions'') that experience has shown do not have a significant effect on the human environment and, therefore, do not require an Environmental Assessment or Environmental Impact Statement. 40 CFR 1501.4, 1507.3(e)(2)(ii). The DHS categorical exclusions are listed in Appendix A of the Instruction Manual. For an action to be categorically excluded, it must satisfy each of the following three conditions: (1) The entire action clearly fits within one or more of the categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.[106]

As discussed in more detail throughout this proposed rule, the Departments are proposing to modify the expedited removal process, specifically for those who are found to have a positive credible fear. The proposed rule could result in an increase in the number of noncitizens in expedited removal paroled out of custody, thereby possibly allowing for efficient processing or prioritizing use of DHS's limited detention bed space to detain those noncitizens who pose the greatest threats to national security and public safety.

Generally, the Departments believe NEPA does not apply to a rule intended to change a discrete aspect of an immigration program because any attempt to analyze its potential impacts would be largely, if not completely, speculative. This proposed rule would not alter any eligibility criteria, but rather would change certain procedures, specifically, which Federal agency adjudicates certain asylum claims. The proposed rule also would not make any changes to detention facilities. Rather, the detention facilities are already in existence and to attempt to calculate how many noncitizens would be paroled—a highly discretionary benefit—and how many would proceed to the detention centers would be near impossible to determine. The Departments have no reason to believe that these amendments would change

[105] *See* BLS, *Historical Consumer Price Index for All Urban Consumers (CPI–U): U.S. City Average, All Items, https://www.bls.gov/cpi/tables/supplemental-files/historical-cpi-u-202103.pdf* (last visited May 5, 2021).

Calculation of inflation: (1) Calculate the average monthly CPI–U for the reference year (1995) and the most recent current year available (2020); (2) Subtract reference year CPI–U from current year CPI–U; (3) Divide the difference of the reference year CPI–U and current year CPI–U by the reference year CPI–U; (4) Multiply by 100 = [(Average monthly CPI–U for 2020 – Average monthly CPI–U for 1995)/(Average monthly CPI–U for 1995)] * 100 = [(258.811 – 152.383)/152.383] * 100 = (106.428/152.383) *100 = 0.6984 * 100 = 69.84 percent = 69.8 percent (rounded).

Calculation of inflation-adjusted value: $100 million in 1995 dollars * 1.698 = $169.8 million in 2020 dollars.

[106] Instruction Manual section V.B(2)(a)–(c).

the environmental effect, if any, of the existing regulations.

Therefore, the Departments have determined that, even if NEPA applied to this action, this proposed rule clearly fits within categorical exclusion A3(d) in the Instruction Manual, which provides an exclusion for ''promulgation of rules . . . that amend an existing regulation without changing its environmental effect.'' Furthermore, the Departments have determined that this proposed rule clearly fits within the categorical exclusion A3(a) in the Instruction Manual because the proposed rule is of a strictly administrative or procedural nature. This proposed rule is not a part of a larger action and presents no extraordinary circumstances creating the potential for significant environmental effects. Therefore, this proposed rule is categorically excluded and no further NEPA analysis is required.

Q. Paperwork Reduction Act

USCIS Form I–765

Under the Paperwork Reduction Act (''PRA''), Public Law 104–13, 109 Stat. 163 (1995), all agencies are required to submit to OMB, for review and approval, any reporting requirements inherent in a rule.

DHS and USCIS invite the general public and other Federal agencies to comment on the impact to the proposed collection of information. In accordance with the PRA, the information collection notice is published in the **Federal Register** to obtain comments regarding the proposed edits to the information collection instrument.

Comments are encouraged and will be accepted for 60 days from the publication date of the proposed rule. All submissions received must include the OMB Control Number 1615–0040 in the body of the letter and the agency name. To avoid duplicate submissions, please use only *one* of the methods under the **ADDRESSES** and I. Public Participation section of this rule to submit comments. Comments on this information collection should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) 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 IT (*e.g.,* permitting electronic submission of responses).

Overview of Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Employment Authorization.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–765; I–765WS; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. USCIS uses Form I–765 to collect information needed to determine if a noncitizen is eligible for an initial EAD, a new replacement EAD, or a subsequent EAD upon the expiration of a previous EAD under the same eligibility category. Noncitizens in many immigration statuses are required to possess an EAD as evidence of employment authorization. USCIS is proposing to revise the form instructions to correspond with revisions related to information about the asylum application and USCIS grants of withholding of removal.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I–765 paper filing is 2,179,494, and the estimated hour burden per response is 4.5 hours; the estimated total number of respondents for the information collection I–765 online filing is 106,506, and the estimated hour burden per response is 4 hours; the estimated total number of respondents for the information collection I–765WS is 302,000, and the estimated hour burden per response is 0.5 hours; the estimated total number of respondents for the information collection biometrics submission is 302,535, and the estimated hour burden per response is 1.17 hours; the estimated total number of respondents for the information collection passport photos is 2,286,000, and the estimated hour burden per response is 0.5 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection of information is 11,881,713 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $400,895,820.

List of Subjects

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 1003

Administrative practice and procedure, Aliens, Immigration, Legal services, Organization and functions (Government agencies).

8 CFR Part 1208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 1235

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Regulatory Amendments

DEPARTMENT OF HOMELAND SECURITY

Accordingly, for the reasons set forth in the preamble, the Secretary of Homeland Security proposes to amend 8 CFR parts 208 and 235 as follows:

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 1. The authority citation for part 208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Pub. L. 110–229; 8 CFR part 2; Pub. L. 115–218.

■ 2. Amend § 208.2 by:
■ a. Revising paragraphs (a) and (b);
■ b. Removing the word ''or'' at the end of paragraph (c)(1)(vii);
■ c. Removing the period at the end of paragraph (c)(1)(viii) and adding ''; or'' in its place;
■ d. Removing and reserving paragraph (c)(1)(ix);
■ e. Adding paragraph (c)(1)(x); and

■ f. In paragraph (c)(3)(i):
■ i. Adding the words ''and in 8 CFR 1003.48'' after the words ''Except as provided in this section''; and
■ ii. Removing ''paragraph (c)(1) or (c)(2)'' and adding ''paragraph (c)(1) or (2)'' in its place.

The revisions and addition read as follows:

§ 208.2 Jurisdiction.

(a) *Jurisdiction of U.S. Citizenship and Immigration Services (USCIS).* (1) Except as provided in paragraph (b) or (c) of this section, USCIS shall have initial jurisdiction over:

(i) An asylum application filed by an alien physically present in the United States or seeking admission at a port-of-entry; and

(ii) Hearings provided in accordance with section 235(b)(1)(B)(ii) of the Act to further consider the application for asylum of an alien, other than a stowaway, found to have a credible fear of persecution or torture in accordance with § 208.30(f) and retained by USCIS, or referred to USCIS by an immigration judge pursuant to 8 CFR 1003.42 and 1208.30 after the immigration judge has vacated a negative credible fear determination. Hearings to further consider applications for asylum under this paragraph (a)(1)(ii) are governed by the procedures provided for under § 208.9. Further consideration of an asylum application filed by a stowaway who has received a positive credible fear determination will be under the jurisdiction of an immigration judge pursuant to paragraph (c) of this section.

(2) USCIS shall also have initial jurisdiction over credible fear determinations under § 208.30 and reasonable fear determinations under § 208.31.

(b) *Jurisdiction of Immigration Court in general.* Immigration judges shall have exclusive jurisdiction over asylum applications filed by aliens who have been served a Form I–221, Order to Show Cause; Form I–122, Notice to Applicant for Admission Detained for a Hearing before an Immigration Judge; or Form I–862, Notice to Appear, after the charging document has been filed with the Immigration Court. Immigration judges shall also have jurisdiction over any asylum applications filed prior to April 1, 1997, by alien crewmembers who have remained in the United States longer than authorized, by applicants for admission under the Visa Waiver Pilot Program, and by aliens who have been admitted to the United States under the Visa Waiver Pilot Program. Immigration judges shall also have the authority to review credible fear determinations referred to the Immigration Court under § 208.30, reasonable fear determinations referred to the Immigration Court under § 208.31, and asylum officers' denials of applications, under § 208.14(c)(5), referred to the Immigration Court for review under 8 CFR 1003.48.

(c) * * *

(1) * * *

(x) An alien referred for proceedings under 8 CFR 1003.48 on or after [effective date of final rule].

* * * * *

■ 3. Amend § 208.3 by revising paragraphs (a) and (c)(3) to read as follows:

§ 208.3 Form of application.

(a)(1) Except for applicants described in paragraph (a)(2) of this section, an asylum applicant must file Form I–589, Application for Asylum and for Withholding of Removal, together with any additional supporting evidence in accordance with the instructions on the form. The applicant's spouse and children shall be listed on the application and may be included in the request for asylum if they are in the United States. One additional copy of the principal applicant's Form I–589 must be submitted for each dependent included in the principal's application.

(2) For asylum applicants, other than stowaways, who are awaiting further consideration of an asylum application pursuant to section 235(b)(1)(B)(ii) of the Act following a positive credible fear determination, the written record of a positive credible fear finding issued in accordance with § 208.30(f) or 8 CFR 1003.42 or 1208.30 satisfies the application filing requirements in paragraph (a)(1) of this section and § 208.4(b) for purposes of consideration by USCIS pursuant to the jurisdiction provided at § 208.2(a)(1)(ii). The written record of the positive credible fear determination shall be considered a complete asylum application for purposes of §§ 208.4(a), 208.7, and 208.9(a); shall not be subject to the requirements of 8 CFR 103.2; and shall be subject to the conditions and consequences in paragraph (c) of this section upon signature at the asylum hearing. The date that the positive credible fear determination is served on the alien shall be considered the date of filing and receipt. Application information collected electronically will be preserved in its native format. The applicant's spouse and children may be included in the request for asylum only if they were included in the credible fear determination pursuant to § 208.30(c), or also presently have an application for asylum pending adjudication with USCIS pursuant to § 208.2(a)(1)(ii). The asylum applicant may subsequently amend, correct, or supplement the information collected during the expedited removal process, including the process that concluded with a positive credible fear determination, provided the information is submitted directly to the asylum office no later than 7 calendar days prior to the scheduled asylum hearing, or for documents submitted by mail, postmarked no later than 10 days prior to the scheduled asylum hearing. As a matter of discretion, the asylum officer may consider amendments or supplements submitted after the 7- or 10-day (depending on the method of submission) deadline or may grant the applicant a brief extension of time during which the applicant may submit additional evidence. The biometrics captured during expedited removal for the principal applicant and any dependents may be used to verify identity and for criminal and other background checks for purposes of an asylum application under the jurisdiction of USCIS pursuant to § 208.2(a)(1) and any subsequent immigration benefit.

* * * * *

(c) * * *

(3) An asylum application under paragraph (a)(1) of this section must be properly filed in accordance with 8 CFR part 103 and the filing instructions. Receipt of a properly filed asylum application under paragraph (a) of this section will commence the period after which the applicant may file an application for employment authorization in accordance with § 208.7 and 8 CFR 274a.12 and 274a.13.

* * * * *

■ 4. Amend § 208.4 by revising paragraph (c) to read as follows:

§ 208.4 Filing the application.

* * * * *

(c) *Amending an application after filing.* Upon the request of the alien, and as a matter of discretion, the asylum officer or immigration judge with jurisdiction may permit an asylum applicant to amend or supplement the application filed under § 208.3(a)(1). Any delay in adjudication or in proceedings caused by a request to amend or supplement the application will be treated as a delay caused by the applicant for purposes of § 208.7 and 8 CFR 274a.12(c)(8).

■ 5. Amend § 208.9 by revising and republishing the section heading and paragraphs (a) through (g) to read as follows:

§ 208.9 Procedure for interview or hearing before an asylum officer.

(a) *Claims adjudicated.* USCIS shall adjudicate the claim of each asylum applicant whose application is complete within the meaning of § 208.3(a)(2) or (c)(3), when applicable, and is within the jurisdiction of USCIS pursuant to § 208.2(a).

(b) *Conduct and purpose of interview or hearing.* The asylum officer shall conduct the interview or hearing in a nonadversarial manner and, except at the request of the applicant, separate and apart from the general public. The purpose of the interview or hearing shall be to elicit all relevant and useful information bearing on the applicant's eligibility for asylum. At the time of the interview or hearing, the applicant must provide complete information regarding his or her identity, including name, date and place of birth, and nationality, and may be required to register this identity. The applicant may have counsel or a representative present, may present witnesses, and may submit affidavits of witnesses and other evidence.

(c) *Authority of asylum officer.* The asylum officer shall have authority to administer oaths, verify the identity of the applicant (including through the use of electronic means), verify the identity of any interpreter, present evidence, receive evidence, and question the applicant and any witnesses.

(d) *Completion of the interview or hearing.* Upon completion of the interview or hearing before an asylum officer:

(1) The applicant or the applicant's representative will have an opportunity to make a statement or comment on the evidence presented. The representative will also have the opportunity to ask follow-up questions.

(2) USCIS will inform the applicant that he or she must appear in person to receive and to acknowledge receipt of the decision of the asylum officer and any other accompanying material at a time and place designated by the asylum officer, except as otherwise provided by the asylum officer. An applicant's failure to appear to receive and acknowledge receipt of the decision will be treated as delay caused by the applicant for purposes of § 208.7.

(e) *Extensions.* The asylum officer will consider evidence submitted by the applicant together with his or her asylum application. For applications being considered under § 208.2(a)(1)(i), the applicant must submit any documentary evidence at least 14 calendar days in advance of the interview date. As a matter of discretion, the asylum officer may consider evidence submitted within the 14-day period prior to the interview date or may grant the applicant a brief extension of time during which the applicant may submit additional evidence. Any such extension will be treated as a delay caused by the applicant for purposes of § 208.7.

(f) *Record.* (1) The asylum application, all supporting information provided by the applicant, any comments submitted by the Department of State or by DHS, and any other information considered by the asylum officer in the written decision shall comprise the record.

(2) For hearings on asylum applications within the jurisdiction of USCIS pursuant to § 208.2(a)(1)(ii), the record shall also include a verbatim audio or video recording of the hearing, except for statements made off the record with the permission of the asylum officer. A transcript of the interview will be included in the referral package to the immigration judge as described in § 208.14(c)(5).

(g) *Interpreters.* (1) Except as provided in paragraph (g)(2) of this section, an applicant unable to proceed with the interview in English must provide, at no expense to USCIS, a competent interpreter fluent in both English and the applicant's native language or any other language in which the applicant is fluent. The interpreter must be at least 18 years of age. Neither the applicant's attorney or representative of record, a witness testifying on the applicant's behalf, nor a representative or employee of the applicant's country of nationality, or if stateless, country of last habitual residence, may serve as the applicant's interpreter. Failure without good cause to comply with this paragraph may be considered a failure to appear for the interview for purposes of § 208.10.

(2) Notwithstanding paragraph (h) of this section, for asylum applications retained by USCIS for further consideration pursuant to § 208.30*(f)* or 8 CFR 1003.42 or 1208.30, if the applicant is unable to proceed effectively in English, the asylum officer shall arrange for the assistance of an interpreter in conducting the hearing. The interpreter must be at least 18 years of age. Neither the applicant's attorney or representative of record, a witness testifying on the applicant's behalf, nor a representative or employee of the applicant's country of nationality, or if stateless, country of last habitual residence, may serve as the applicant's interpreter.

* * * * *

■ 6. Revise § 208.10 to read as follows:

§ 208.10 Failure to appear for an interview or hearing before an asylum officer or for a biometrics services appointment for the asylum application.

(a) *Failure to appear for an asylum interview or hearing, or for a biometrics services appointment.* (1) The failure to appear for an asylum interview or hearing, or for a biometrics services appointment, may result in one or more of the following actions:

(i) Waiver of the right to an interview or adjudication by an asylum officer;

(ii) Dismissal of the application for asylum;

(iii) Referral of the applicant to the Immigration Court;

(iv) Denial of employment authorization; or

(v) For individuals whose case is retained by USCIS for consideration of their application for asylum after a positive credible fear determination pursuant to § 208.30(f) or 8 CFR 1003.42 or 1208.30, issuance of an order of removal based on the inadmissibility determination of the immigration officer under section 235(b)(1)(A)(i) of the Act.

(2) There is no requirement for USCIS to send a notice to an applicant that he or she failed to appear for his or her asylum interview or hearing, or for a biometrics services appointment prior to issuing a decision on the application. Any rescheduling request for the asylum interview or hearing that has not yet been fulfilled on the date the application for employment authorization is filed under 8 CFR 274a.12(c)(8) will be treated as an applicant-caused delay for purposes of § 208.7.

(b) *Rescheduling missed appointments.* USCIS, in its sole discretion, may excuse the failure to appear for an asylum interview or hearing, or biometrics services appointment and reschedule the missed appointment as follows:

(1) *Asylum interview or hearing.* If the applicant demonstrates that he or she was unable to make the appointment due to exceptional circumstances.

(2) *Biometrics services appointment.* USCIS may reschedule the biometrics services appointment as provided in 8 CFR part 103.

■ 7. Amend § 208.14 by:

■ a. Removing ''RAIO'' and adding in its place ''USCIS'' in paragraph (b);

■ b. Revising paragraphs (c) introductory text and (c)(1); and

■ c. Adding paragraph (c)(5).

The revisions and addition read as follows:

§ 208.14 Approval, denial, referral, or dismissal of application.

* * * * *

(c) *Denial, referral, or dismissal by an asylum officer.* If the asylum officer does not grant asylum to an applicant after an interview or hearing conducted in accordance with § 208.9, or if, as provided in § 208.10, the applicant is deemed to have waived his or her right to an interview, a hearing, or an adjudication by an asylum officer, the asylum officer shall deny, refer, or dismiss the application as follows:

(1) *Inadmissible or deportable aliens.* Except as provided in paragraph (c)(4) or (5) of this section, in the case of an applicant who appears to be inadmissible or deportable under section 212(a) or 237(a) of the Act, the asylum officer shall refer the application to an immigration judge, together with the appropriate charging document, for adjudication in removal proceedings (or, where charging documents may not be issued, shall dismiss the application).

* * * * *

(5) *Alien referred for consideration of asylum application in a hearing before an asylum officer after positive credible fear finding.* In the case of an application within the jurisdiction of USCIS pursuant to § 208.2(a)(1)(ii), the asylum officer shall deny the application for asylum. The applicant will be provided a written notice of the decision. The decision will also include an order of removal based on the immigration officer's inadmissibility determination under section 235(b)(1)(A)(i) of the Act and a decision on any request for withholding of removal under § 208.16(d) and deferral of removal under § 208.17, where applicable. The notice shall explain that the alien may seek to have an immigration judge review the decision, in accordance with 8 CFR 1003.48. The alien shall have 30 days to affirmatively request such review as directed on the decision notice. The failure to timely request further review will be processed as the alien's decision not to request review.

(i) If the alien requests such immigration judge review, USCIS will serve the alien with a notice of referral to an immigration judge for review of the asylum application. USCIS shall provide the record of the proceedings before the asylum officer, as outlined in § 208.9(f), to the immigration judge and the alien, along with the written notice of decision, including the order of removal issued by the asylum officer, and the alien's request for review.

(ii) If the alien does not request a review by an immigration judge, the decision and order of removal will be final and the alien shall be subject to removal from the United States.

(iii) Once USCIS has commenced proceedings under 8 CFR 1003.48 by filing the notice of referral, the immigration judge has sole jurisdiction to review the application and an asylum officer may not reopen or reconsider the application once it has been referred to the immigration judge.

* * * * *

8. Amend § 208.16 by revising paragraphs (a) and (c)(4) to read as follows:

§ 208.16 Withholding of removal under section 241(b)(3)(B) of the Act and withholding of removal under the Convention Against Torture.

(a) *Consideration of application for withholding of removal.* An asylum officer shall not decide whether the exclusion, deportation, or removal of an alien to a country where the alien's life or freedom would be threatened must be withheld, except in the case of an alien who is determined to be an applicant for admission under section 235(b)(1) of the Act, is found to have a credible fear of persecution or torture, and whose case is subsequently retained by or referred to USCIS pursuant to the jurisdiction provided at § 208.2(a)(1)(ii) to consider the application for asylum, and that application for asylum is denied.

* * * * *

(c) * * *

(4) In considering an application for withholding of removal under the Convention Against Torture, the asylum officer shall first determine whether the alien is more likely than not to be tortured in the country of removal. If the asylum officer determines that the alien is more likely than not to be tortured in the country of removal, the alien is entitled to protection under the Convention Against Torture. Protection under the Convention Against Torture will be granted either in the form of withholding of removal or in the form of deferral of removal. An alien entitled to such protection shall be granted withholding of removal unless the alien is subject to mandatory denial of withholding of removal under paragraph (d)(2) or (3) of this section. If an alien entitled to such protection is subject to mandatory denial of withholding of removal under paragraph (d)(2) or (3) of this section, the alien's removal shall be deferred under § 208.17(a).

* * * * *

■ 9. Amend § 208.17 by revising paragraph (b), (d), and (e) to read as follows:

§ 208.17 Deferral of removal under the Convention Against Torture.

* * * * *

(b) *Notice to alien.* (1) After an asylum officer orders an alien described in paragraph (a) of this section removed, the asylum officer shall inform the alien that his or her removal to the country where he or she is more likely than not to be tortured shall be deferred until such time as the deferral is terminated under this section or under 8 CFR 1208.17. The asylum officer shall inform the alien that deferral of removal:

(i) Does not confer upon the alien any lawful or permanent immigration status in the United States;

(ii) Will not necessarily result in the alien being released from the custody of DHS if the alien is subject to such custody;

(iii) Is effective only until terminated; and

(iv) Is subject to review and termination pursuant to this section or 8 CFR 1208.17 if the asylum officer determines that it is not likely that the alien would be tortured in the country to which removal has been deferred, or if the alien requests that deferral be terminated.

(2) The asylum officer shall also inform the alien that removal has been deferred only to the country in which it has been determined that the alien is likely to be tortured, and that the alien may be removed at any time to another country where he or she is not likely to be tortured.

* * * * *

(d) *Termination of deferral of removal.* (1) At any time while deferral of removal is in effect, the Asylum Office with jurisdiction over an alien whose removal has been deferred under paragraph (a) of this section may schedule a hearing to consider whether deferral of removal should be terminated.

(2) The Asylum Office shall provide notice to the alien of the time, place, and date of the termination hearing. Such notice shall inform the alien that the alien may supplement the information in his or her initial application for withholding of removal under the Convention Against Torture and shall provide that the alien must submit any such supplemental information within 10 calendar days of service of such notice (or 13 calendar days if service of such notice was by mail).

(3) The asylum officer shall conduct a hearing and make a de novo determination, based on the record of proceeding and initial application in addition to any new evidence submitted by the alien, as to whether the alien is more likely than not to be tortured in the country to which removal has been

deferred. This determination shall be made under the standards for eligibility set out in § 208.16(c). The burden is on the alien to establish that it is more likely than not that he or she would be tortured in the country to which removal has been deferred.

(4) If the asylum officer determines that the alien is more likely than not to be tortured in the country to which removal has been deferred, the order of deferral shall remain in place. If the asylum officer determines that the alien has not established that he or she is more likely than not to be tortured in the country to which removal has been deferred, the deferral of removal shall be terminated and the alien may be removed to that country. Appeal of the asylum officer's decision shall lie to the immigration judge under the process provided for at § 208.14(c)(5) and 8 CFR 1003.48.

(e) *Termination at the request of the alien.* (1) At any time while deferral of removal is in effect, the alien may make a written request to the Asylum Office with jurisdiction over the initial determination to terminate the deferral order. If satisfied on the basis of the written submission that the alien's request is knowing and voluntary, the asylum officer shall terminate the order of deferral and the alien may be removed.

(2) If necessary, the Asylum Office may calendar a hearing for the sole purpose of determining whether the alien's request is knowing and voluntary. If the asylum officer determines that the alien's request is knowing and voluntary, the order of deferral shall be terminated. If the asylum officer determines that the alien's request is not knowing and voluntary, the alien's request shall not serve as the basis for terminating the order of deferral.

* * * * *

■ 10. Amend § 208.18 by revising paragraph (b)(1) to read as follows:

§ 208.18 Implementation of the Convention Against Torture.

* * * * *

(b) * * *

(1) *Aliens in proceedings on or after March 22, 1999.* (i) An alien who is in exclusion, deportation, or removal proceedings on or after March 22, 1999, may apply for withholding of removal under 8 CFR 1208.16(c), and, if applicable, may be considered for deferral of removal under 8 CFR 1208.17(a).

(ii) In addition, an alien may apply for withholding of removal under § 208.16(c), and, if applicable, may be considered for deferral of removal under § 208.17(a), in the following situation: the alien is determined to be an applicant for admission under section 235(b)(1) of the Act, the alien is found to have a credible fear of persecution or torture and the alien's case is subsequently retained by or referred to USCIS pursuant to the jurisdiction provided at § 208.2(a)(1)(ii) for consideration of the application for asylum, and that application is denied.

* * * * *

■ 11. Revise § 208.19 to read as follows:

§ 208.19 Decisions.

The decision of an asylum officer issued in accordance with § 208.14(b) or (c) shall be communicated in writing to the applicant in-person, by mail, or electronically. Pursuant to § 208.9(d), an applicant must appear in person to receive and to acknowledge receipt of the decision unless, in the discretion of the asylum office director, service by mail or electronic service is appropriate. A letter communicating denial or referral of the application shall state the basis for denial or referral and include an assessment of the applicant's credibility.

■ 12. Revise § 208.22 to read as follows:

§ 208.22 Effect on exclusion, deportation, and removal proceedings.

An alien who has been granted asylum may not be deported or removed unless his or her asylum status is terminated pursuant to § 208.24 or 8 CFR 1208.24. An alien who is granted withholding of removal or deportation, or deferral of removal, may not be deported or removed to the country to which his or her deportation or removal is ordered withheld or deferred unless the withholding order is terminated pursuant to § 208.24 or 8 CFR 1208.24, or deferral is terminated pursuant to § 208.17(d) or (e) or 8 CFR 1208.17.

■ 13. Amend § 208.30 by:

■ a. Revising the section heading and paragraphs (b), (c), and (d) introductory text;

■ b. Adding a heading for paragraph (e);

■ c. Removing the introductory text of paragraph (e); and

■ d. Revising paragraphs (e)(1) through (4), (e)(5)(i)(A), (e)(6) introductory text, (e)(6)(ii), (f), and (g).

The revisions and addition read as follows:

§ 208.30 Credible fear determinations involving stowaways and applicants for admission found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act.

* * * * *

(b) *Process and authority.* If an alien subject to section 235(a)(2) or 235(b)(1) of the Act indicates an intention to apply for asylum, or expresses a fear of persecution or torture, or a fear of return to his or her country, the inspecting officer shall not proceed further with removal of the alien until the alien has been referred for an interview by a USCIS asylum officer in accordance with this section. A USCIS asylum officer shall then screen the alien for a credible fear of persecution or torture. An asylum officer, as defined in section 235(b)(1)(E) of the Act, has the authorities described in § 208.9(c). If the asylum officer in his or her discretion determines that circumstances so warrant, the asylum officer, after supervisory concurrence, may refer the alien for proceedings under section 240 of the Act without making a credible fear determination.

(c) *Treatment of family units.*(1) A spouse or child of a principal alien who arrived in the United States concurrently with the principal alien shall be included in that alien's positive fear evaluation and determination, unless the principal alien declines such inclusion. However, any alien may have his or her evaluation and determination made separately, if he or she expresses such a desire.

(2) The asylum officer in his or her discretion may also include other accompanying family members who arrived in the United States concurrently with a principal alien in that alien's positive fear evaluation and determination for purposes of family unity.

(3) For purposes of family units in credible fear determinations, the definition of ''child'' means an unmarried person under 21 years of age.

(d) *Interview.* A USCIS asylum officer will conduct the credible fear interview in a nonadversarial manner, separate and apart from the general public. The purpose of the interview shall be to elicit all relevant and useful information bearing on whether the alien can establish a credible fear of persecution or torture. The information provided during the interview may form the basis of an asylum application pursuant to paragraph (f) of this section and § 208.3(a)(2). The asylum officer shall conduct the interview as follows:

* * * * *

(e) *Determination.* (1) The asylum officer shall create a written record of his or her determination, including a summary of the material facts as stated by the applicant, any additional facts relied on by the officer, and the officer's determination of whether, in light of such facts, the alien has established a credible fear of persecution or torture.

(2) An alien will be found to have a credible fear of persecution if there is a

significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to the officer, the alien can establish eligibility for asylum under section 208 of the Act or for withholding of removal under section 241(b)(3) of the Act. However, prior to January 1, 2030, in the case of an alien physically present in or arriving in the Commonwealth of the Northern Mariana Islands, the officer may only find a credible fear of persecution if there is a significant possibility that the alien can establish eligibility for withholding of removal pursuant to section 241(b)(3) of the Act.

(3) An alien will be found to have a credible fear of torture if the alien shows that there is a significant possibility that he or she is eligible for withholding of removal or deferral of removal under the Convention Against Torture, pursuant to § 208.16 or § 208.17.

(4) In determining whether the alien has a credible fear of persecution, as defined in section 235(b)(1)(B)(v) of the Act, or a credible fear of torture, the asylum officer shall consider whether the alien's case presents novel or unique issues that merit a positive credible fear finding pursuant to paragraph (f) of this section in order to receive further consideration of the application for asylum and withholding of removal.

(5)(i)(A) Except as provided in paragraphs (e)(5)(ii) through (iv) or paragraph (e)(6) or (7) of this section, if an alien is able to establish a credible fear of persecution or torture but appears to be subject to one or more of the mandatory bars to applying for, or being granted, asylum contained in section 208(a)(2) and (b)(2) of the Act, or to withholding of removal contained in section 241(b)(3)(B) of the Act, the Department of Homeland Security shall nonetheless retain or refer the alien for further consideration of the alien's claim pursuant to paragraph (f) of this section, if the alien is not a stowaway. If the alien is a stowaway, the Department shall place the alien in proceedings for consideration of the alien's claim pursuant to § 208.2(c)(3).

* * * * *

(6) Prior to any determination concerning whether an alien arriving in the United States at a U.S.-Canada land border port-of-entry or in transit through the United States during removal by Canada has a credible fear of persecution or torture, the asylum officer shall conduct a threshold screening interview to determine whether such an alien is ineligible to apply for asylum pursuant to section 208(a)(2)(A) of the Act and subject to removal to Canada by operation of the Agreement Between the Government of the United States and the Government of Canada For Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries (''Agreement''). In conducting this threshold screening interview, the asylum officer shall apply all relevant interview procedures outlined in paragraph (d) of this section, provided, however, that paragraph (d)(2) of this section shall not apply to aliens described in this paragraph (e)(6). The asylum officer shall advise the alien of the Agreement's exceptions and question the alien as to applicability of any of these exceptions to the alien's case.

* * * * *

(ii) If the alien establishes by a preponderance of the evidence that he or she qualifies for an exception under the terms of the Agreement, the asylum officer shall make a written notation of the basis of the exception, and then proceed immediately to a determination concerning whether the alien has a credible fear of persecution or torture under paragraph (d) of this section.

* * * * *

(f) *Procedures for a positive credible fear finding.* If an alien, other than an alien stowaway, is found to have a credible fear of persecution or torture, the asylum officer will so inform the alien and issue the alien a record of the positive credible fear determination, including copies of the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based. The documents may be served in-person, by mail, or electronically. USCIS will retain jurisdiction over the application for asylum pursuant to § 208.2(a)(1)(ii) for further consideration in a hearing pursuant to § 208.9 or refer for consideration of the asylum and withholding of removal claim in proceedings under section 240 of the Act. If an alien stowaway is found to have a credible fear of persecution or torture, the asylum officer will so inform the alien and issue a Form I–863, Notice of Referral to Immigration Judge, for full consideration of the asylum claim, or the withholding of removal claim, in proceedings under § 208.2(c). Parole of the alien may be considered only in accordance with section 212(d)(5) of the Act and 8 CFR 212.5.

(g) *Procedures for a negative credible fear finding.* (1) If an alien is found not to have a credible fear of persecution or torture, the asylum officer shall provide the alien with a written notice of decision and issue the alien a record of the credible fear determination, including copies of the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based. The documents may be served in-person, by mail, or electronically. The asylum officer shall inquire whether the alien wishes to have an immigration judge review the negative decision, which shall include an opportunity for the alien to be heard and questioned by the immigration judge as provided for under section 235(b)(1)(B)(iii)(III) of the Act, using Form I–869, Record of Negative Credible Fear Finding and Request for Review by Immigration Judge. The alien shall indicate whether he or she desires such review on Form I–869. A refusal by the alien to make such indication shall be considered a request for review.

(i) If the alien requests such review, or refuses to either request or decline such review, the asylum officer shall serve him or her with a Form I–863, Notice of Referral to Immigration Judge, for review of the credible fear determination in accordance with paragraph (g)(2) of this section. Once the asylum officer has served the alien with Form I–863, the immigration judge shall have sole jurisdiction to review whether the alien has established a credible fear of persecution or torture, and an asylum officer may not reconsider or reopen the determination.

(ii) If the alien is not a stowaway and does not request a review by an immigration judge, the officer shall order the alien removed and issue a Form I–860, Notice and Order of Expedited Removal, after review by a supervisory asylum officer.

(iii) If the alien is a stowaway and the alien does not request a review by an immigration judge, the asylum officer shall refer the alien to the district director for completion of removal proceedings in accordance with section 235(a)(2) of the Act.

(2)(i) Immigration judges will review negative credible fear findings as provided in 8 CFR 1003.42 and 1208.30(g).

(ii) The record of the negative credible fear determination, including copies of the Form I–863, the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based shall be provided to the immigration judge with the negative determination.

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 14. The authority citation for part 235 is revised to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, 69 FR 241, 3 CFR, 2003 Comp., p. 278), 1201, 1224, 1225, 1226, 1228, 1365a note, 1365b, 1379, 1731–32; 48 U.S.C. 1806, 1807, and 1808 and 48 U.S.C. 1806 notes (Title VII of Pub. L. 110–229, 122 Stat. 754); 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, 118 Stat. 3638 and Pub. L. 112–54, 125 Stat. 550).

■ 15. Amend § 235.3 by revising paragraphs (b)(2)(iii) and (b)(4)(ii) to read as follows:

§ 235.3 Inadmissible aliens and expedited removal.

* * * * *

(b) * * *

(2) * * *

(iii) *Detention and parole of alien in expedited removal.* An alien whose inadmissibility is being considered under this section or who has been ordered removed pursuant to this section shall be detained pending determination and removal. Parole of such alien, in accordance with section 212(d)(5) of the Act and § 212.5 of this chapter, may be permitted only when DHS determines, in the exercise of discretion, that parole is required to meet a medical emergency, for a legitimate law enforcement objective, or because detention is unavailable or impracticable (including situations in which continued detention would unduly impact the health or safety of individuals with special vulnerabilities).

* * * * *

(4) * * *

(ii) *Detention pending credible fear interview.* Pending the credible fear determination by an asylum officer and any review of that determination by an immigration judge, the alien shall be detained. Parole of such alien, in accordance with section 212(d)(5) of the Act and § 212.5 of this chapter, may be permitted only when DHS determines, in the exercise of discretion, that parole is required to meet a medical emergency, for a legitimate law enforcement objective, or because detention is unavailable or impracticable (including situations in which continued detention would unduly impact the health or safety of individuals with special vulnerabilities). A grant of parole would be for the limited purpose of parole out of custody and cannot serve as an independent basis for employment authorization under § 274a.12(c)(11) of this chapter. Prior to the interview, the alien shall be given time to contact and consult with any person or persons of his or her choosing. If the alien is detained, such consultation shall be made available in accordance with the policies and procedures of the detention facility where the alien is detained, shall be at no expense to the Government, and shall not unreasonably delay the process.

* * * * *

■ 16. Amend § 235.6 by:

■ a. Removing and reserving paragraphs (a)(1)(iii) and (iv); and

■ b. Revising paragraph (a)(2)(i);

■ c. Removing the period at the end of paragraph (c)(2)(ii) and adding ''; or'' in its place; and

■ d. Revising paragraph (a)(2)(iii).

The revisions read as follows:

§ 235.6 Referral to immigration judge.

(a) * * *

(2) * * *

(i) If an asylum officer determines that the alien does not have a credible fear of persecution or torture, and the alien requests a review of that determination by an immigration judge;

* * * * *

(iii) If an immigration officer refers an applicant in accordance with the provisions of § 208.2(c)(1) or (2) of this chapter to an immigration judge for an asylum- or withholding-only hearing.

* * * * *

DEPARTMENT OF JUSTICE

Accordingly, for the reasons set forth in the preamble, the Attorney General proposes to amend 8 CFR parts 1003, 1208, and 1235 as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 17. The authority citation for part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p. 1002; section 203 of Pub. L. 105–100, 111 Stat. 2196–200; sections 1506 and 1510 of Pub. L. 106–386, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

■ 18. Amend § 1003.1 by adding paragraph (b)(15) to read as follows:

§ 1003.1 Organization, jurisdiction, and powers of the Board of Immigration Appeals.

* * * * *

(b) * * *

(15) Decisions of immigration judges in proceedings pursuant to § 1003.48, including immigration judges' decisions on motions under § 1003.48(d) to vacate removal orders. Immigration judges' decisions denying applications because the applicant failed to appear cannot be appealed, but immigration judges' decisions on motions to reopen and motions to reconsider can be appealed.

* * * * *

■ 19. Amend § 1003.12 by revising the second sentence to read as follows:

§ 1003. 12 Scope of rules.

* * * Except where specifically stated, the rules in this subpart apply to matters before immigration judges, including, but not limited to: Deportation, exclusion, removal, bond, rescission, departure control, asylum proceedings (including application review proceedings under § 1003.48), and disciplinary proceedings. * * *

■ 20. Add § 1003.48 to read as follows:

§ 1003.48 Review of applications denied after a positive credible fear determination.

(a) *Scope.* In proceedings conducted under this section, immigration judges shall have the authority, upon the request of an applicant under 8 CFR 208.14(c)(5), to review asylum officers' decisions on applications for asylum under section 208 of the Act, withholding of removal under section 241(b)(3) of the Act, and withholding or deferral of removal under the Convention Against Torture. Where an asylum officer grants one application but denies another, the immigration judge has the authority to review both the denial and the grant. An immigration judge shall not have the authority in these proceedings to consider an application for a form of relief and protection other than those listed in the first sentence of this paragraph (a), or to review an asylum officer's inadmissibility determination under section 235(b)(1)(A)(i) of the Act. However, an applicant can file a motion to vacate a removal order as specified in paragraph (d) of this section.

(b) *Commencement of proceedings.* Proceedings under this section shall commence when DHS files with the Immigration Court the documents identified in paragraphs (b)(1) through (4) of this section:

(1) A Notice of Referral to the immigration judge;

(2) A copy of the record of proceedings before the asylum officer, as outlined in 8 CFR 208.9(f);

(3) The asylum officer's written decision, including the removal order issued under 8 CFR 208.14(c)(5) by the asylum officer; and

(4) Proof that the Notice of Referral, the record of proceedings, and the written decision, including the removal order, have been served on the applicant, which may consist of service via mail.

(c) *Proceedings before the immigration judge.* After a Notice of

Referral is filed with the immigration court, the case shall be scheduled for a hearing, and a hearing notice shall be served on the parties.

(d) *Motion to vacate removal order.* The applicant may file a motion with the immigration judge to vacate the asylum officer's order of removal. For the motion to be granted, the applicant must show that he or she is prima facie eligible for a form of relief or protection under the Act that cannot be considered in proceedings under this section. If the applicant makes such a showing, the immigration judge may, in the exercise of his or her discretion, grant the motion. If the immigration judge grants the motion, DHS may, in the exercise of its discretion, place the applicant in removal proceedings, by issuing a Notice to Appear and filing it with the immigration court. An applicant may file only one such a motion, and the motion must be filed before the immigration judge issues a decision under paragraph (e) of this section. A motion to vacate to apply for voluntary departure under section 240B of the Act shall be denied.

(e) *Immigration judge review.* (1) The immigration judge shall determine, de novo, whether the applicant qualifies for the relief or protection at issue and, if applicable, whether the applicant merits relief in the exercise of discretion. In reaching a decision in proceedings under this section, the immigration judge shall review the record created before the asylum officer, as well as the asylum officer's decision. Either party may provide additional testimony and documentation, but the party must establish that the testimony or documentation is not duplicative of testimony or documentation already presented to the asylum officer, and that the testimony or documentation is necessary to ensure a sufficient factual record upon which to base a reasoned decision on the application or applications. The immigration judge shall not have the authority to remand the case to the asylum officer.

(2) If the immigration judge grants the applicant asylum under section 208 of the Act, the immigration judge shall issue orders granting the application and vacating the removal order issued by an asylum officer under 8 CFR 208.14(c)(5). If the immigration judge grants the application for withholding of removal under section 241(b)(3) of the Act, or withholding or deferral of removal under the Convention Against Torture, the immigration judge shall issue an order granting the application at issue, but shall not vacate the removal order issued by the asylum officer under 8 CFR 208.14(c)(5).

(f) *Failure to appear.* (1) If the applicant fails to appear at a hearing in proceedings conducted under this section, and DHS establishes by clear, unequivocal, and convincing evidence that written notice of the hearing was served on the applicant, the immigration judge shall deny the application or applications under review. There is no appeal from an immigration judge's decision denying an application or applications for failure to appear. However, following such a decision, the applicant may file a motion to reopen with the immigration judge. In the motion, the applicant must establish that:

(i) The failure to appear was because of exceptional circumstances (such as battery or extreme cruelty to the applicant or any child or parent of the applicant, serious illness of the applicant, or serious illness or death of the spouse, child, or parent of the applicant, but not including less compelling circumstances) beyond the control of the applicant;

(ii) The applicant did not receive notice of the hearing; or

(iii) The applicant was in Federal or State custody at the time of the hearing, and the failure to appear was through no fault of the applicant.

(2) A motion filed under paragraph (f)(1)(i) of this section must be filed within 180 days of the hearing. A motion filed under paragraph (f)(1)(ii) or (iii) of this section may be filed at any time. When a motion under this paragraph (f) is granted, the applicant's proceedings under this section are reopened. The granting of such a motion does not entitle the applicant to be placed in removal proceedings.

PART 1208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 21. The authority section for part 1208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Pub. L. 110–229; Pub. L. 115–218.

■ 22. Amend § 1208.2 by:

■ a. Revising paragraph (a);

■ b. Revising the last sentence of paragraph (b);

■ c. Removing the word ''or'' at the end of paragraph (c)(1)(vii);

■ d. Removing the period at the end of paragraph (c)(1)(viii) and adding ''; or'' in its place;

■ e. Removing and reserving paragraph (c)(1)(ix);

■ f. Adding paragraph (c)(1)(x); and

■ g. In paragraph (c)(3)(i):

■ i. Adding the words ''and in 8 CFR 1003.48'' after the words ''Except as provided in this section''; and

■ ii. Removing ''paragraph (c)(1) or (c)(2)'' and adding ''paragraph (c)(1) or (2)'' in its place.

The revisions and addition read as follows:

§ 1208.2 Jurisdiction.

(a) *U.S. Citizenship and Immigration Services (USCIS).* (1) Except as provided in paragraph (b) or (c) of this section, USCIS shall have initial jurisdiction over:

(i) An asylum application filed by an alien physically present in the United States or seeking admission at a port-of-entry; and

(ii) Hearings provided in accordance with section 235(b)(1)(B)(ii) of the Act to further consider the application for asylum of an alien, other than a stowaway, found to have a credible fear of persecution or torture in accordance with 8 CFR 208.30(f) and retained by USCIS, or referred to USCIS by an immigration judge pursuant to §§ 1003.42 of this chapter and 1208.30 after the immigration judge has vacated a negative credible fear determination. Hearings to further consider applications for asylum under this paragraph (a)(1)(ii) are governed by the procedures provided for under 8 CFR 208.9. Further consideration of an asylum application filed by a stowaway who has received a positive credible fear determination will be under the jurisdiction of an immigration judge pursuant to paragraph (c) of this section.

(2) USCIS shall also have initial jurisdiction over credible fear determinations under 8 CFR 208.30 and reasonable fear determinations under 8 CFR 208.31.

(b) * * * Immigration judges shall also have the authority to review credible fear determinations referred to the Immigration Court under § 1208.30, reasonable fear determinations referred to the Immigration Court under § 1208.31, and asylum officers' decisions on applications, under 8 CFR 208.14(c)(5), referred to the Immigration Court for review under § 1003.48 of this chapter.

(c) * * *

(1) * * *

(x) An alien referred for proceedings under § 1003.48 of this chapter on or after [effective date of the final rule].

* * * * *

■ 23. Amend § 1208.3 by revising paragraphs (a) and (c)(3) to read as follows:

§ 1208.3 Form of application.

(a)(1) Except for applicants described in paragraph (a)(2) of this section, an asylum applicant must file Form I–589, Application for Asylum and for Withholding of Removal, together with any additional supporting evidence in accordance with the instructions on the form. The applicant's spouse and children shall be listed on the application and may be included in the request for asylum if they are in the United States. One additional copy of the principal applicant's Form I–589 must be submitted for each dependent included in the principal's application.

(2) In proceedings under § 1003.48 of this chapter, the written record of a positive credible fear finding issued in accordance with 8 CFR 208.30(f), § 1003.42 of this chapter, or § 1208.30 shall be construed as the asylum application and satisfies the application filing requirements in paragraph (a)(1) of this section and § 1208.4(b). The written record of the positive credible fear determination shall be considered a complete asylum application for purposes of § 1208.4(a), with the date of service of the positive credible fear determination on the alien considered the date of filing and receipt, and shall be subject to the conditions and consequences provided for in paragraph (c) of this section following the applicant's signature at the asylum hearing before the USCIS asylum officer. The applicant's spouse and children may be included in the request for asylum only if they were included in the credible fear determination pursuant to 8 CFR 208.30(c). The asylum applicant may subsequently seek to amend, correct, or supplement the record of proceedings created before the asylum officer or during the credible fear review process, but must otherwise meet the requirements of § 1003.48(e) of this chapter concerning new documentation or testimony.

* * * * *

(c) * * *

(3) An asylum application under paragraph (a)(1) of this section must be properly filed in accordance with the form instructions and with §§ 1003.24, 1003.31(b), and 1103.7(a)(3) of this chapter, including payment of a fee, if any, as explained in the instructions to the application. For purposes of filing with an immigration court, an asylum application is incomplete if it does not include a response to each of the required questions contained in the form, is unsigned, is unaccompanied by the required materials specified in paragraph (a) of this section, is not completed and submitted in accordance with the form instructions, or is unaccompanied by any required fee receipt or other proof of payment as provided in § 1208.4(d)(3). The filing of an incomplete application shall not commence the period after which the applicant may file an application for employment authorization. An application that is incomplete shall be rejected by the Immigration Court. If an applicant wishes to have his or her application for asylum considered, he or she shall correct the deficiencies in the incomplete application and refile it within 30 days of rejection. Failure to correct the deficiencies in an incomplete application or failure to timely refile the application with the deficiencies corrected, absent exceptional circumstances as defined in § 1003.10(b) of this chapter, shall result in a finding that the alien has abandoned that application and waived the opportunity to file such an application;

* * * * *

§ 1208.4 [Amended]

■ 24. Amend § 1208.4 by adding the words ‘‘, except that an alien in a review proceeding under § 1003.48 of this chapter is not required to file the Form I–589’’ after the word ‘‘case’’ in paragraph (b)(3)(iii).

§ 1208.5 [Amended]

■ 25. Amend § 1208.5(b)(2) by removing the reference ‘‘§ 1212.5 of this chapter’’ and adding ‘‘8 CFR 212.5’’ in its place.

■ 26. Amend § 1208.14 by:

■ a. Removing ‘‘the Office of International Affairs’’ and adding in its place ‘‘USCIS’’ in paragraph (b);

■ b. Revising paragraphs (c) introductory text and (c)(1); and

■ c. Adding paragraph (c)(5).

The revisions and addition read as follows:

§ 1208.14 Approval, denial, referral, or dismissal of application.

* * * * *

(c) *Denial, referral, or dismissal by an asylum officer.* If the asylum officer does not grant asylum to an applicant after an interview or hearing conducted in accordance with 8 CFR 208.9, or if, as provided in 8 CFR 208.10, the applicant is deemed to have waived his or her right to an interview, a hearing, or an adjudication by an asylum officer, the asylum officer shall deny, refer, or dismiss the application, as follows:

(1) *Inadmissible or deportable aliens.* Except as provided in paragraph (c)(4) or (5) of this section, in the case of an applicant who appears to be inadmissible or deportable under section 212(a) or 237(a) of the Act, the asylum officer shall refer the application to an immigration judge, together with the appropriate charging document, for adjudication in removal proceedings (or, where charging documents may not be issued, shall dismiss the application).

* * * * *

(5) *Alien referred for consideration of asylum application in a hearing before an asylum officer after positive credible fear finding.* In the case of an application within the jurisdiction of USCIS pursuant to 8 CFR 208.2(a)(1)(ii), the asylum officer shall deny the application for asylum. The applicant will be provided a written notice of the decision. The decision will also include an order of removal based on the immigration officer's inadmissibility determination under section 235(b)(1)(A)(i) of the Act and a decision on any request for withholding of removal under 8 CFR 208.16(d) and deferral of removal under 8 CFR 208.17, where applicable. The notice shall explain that the alien may seek to have an immigration judge review the decision, in accordance with § 1003.48 of this chapter. The alien shall have 30 days to affirmatively request such review as directed on the decision notice. The failure to timely request further review will be processed as the alien's decision not to request review.

(i) If the alien requests such immigration judge review, USCIS will serve the alien with a notice of referral to an immigration judge for review of the asylum application. USCIS shall provide the record of the proceedings before the asylum officer, as outlined in 8 CFR 208.9(f), to the immigration judge and the alien, along with the written notice of decision, including the order of removal issued by the asylum officer, and the alien's request for review.

(ii) If the alien does not request a review by an immigration judge, the decision and order of removal will be final and the alien shall be subject to removal from the United States.

(iii) Once USCIS has commenced proceedings under § 1003.48 of this chapter by filing the notice of referral on the alien, the immigration judge has sole jurisdiction to review the application, and an asylum officer may not reopen or reconsider the application once it has been referred to the immigration judge.

* * * * *

■ 27. Amend § 1208.16 by revising paragraph (a) to read as follows:

§ 1208.16 Withholding of removal under section 241(b)(3)(B) of the Act and withholding of removal under the Convention Against Torture.

(a) *Consideration of application for withholding of removal.* An asylum

officer shall not decide whether the exclusion, deportation, or removal of an alien to a country where the alien's life or freedom would be threatened must be withheld, except in the case of an alien who is determined to be an applicant for admission under section 235(b)(1) of the Act, is found to have a credible fear of persecution or torture, and whose case is subsequently retained by or referred to USCIS pursuant to the jurisdiction provided at 8 CFR 208.2(a)(1)(ii) to consider the application for asylum, and that application for asylum is denied. In exclusion, deportation, or removal proceedings, an immigration judge may adjudicate both an asylum claim and a request for withholding of removal, whether or not asylum is granted.

* * * * *

■ 28. Amend § 1208.18 by revising paragraph (b)(1) to read as follows:

§ 1208.18 Implementation of the Convention Against Torture.

* * * * *

(b) * * *

(1) *Aliens in proceedings on or after March 22, 1999.* (i) An alien who is in exclusion, deportation, or removal proceedings on or after March 22, 1999, may apply for withholding of removal under § 1208.16(c), and, if applicable, may be considered for deferral of removal under § 1208.17(a).

(ii) In addition, an alien may apply for withholding of removal under 8 CFR 208.16(c), and, if applicable, may be considered for deferral of removal under 8 CFR 208.17(a), in the following situation: the alien is determined to be an applicant for admission under section 235(b)(1) of the Act, the alien is found to have a credible fear of persecution or torture, and the alien's case is subsequently retained by or referred to USCIS pursuant to the jurisdiction provided at 8 CFR 208.2(a)(1)(ii) to consider the application for asylum, and that application for asylum is denied.

* * * * *

§ 1208.19 [Removed and Reserved]

■ 29. Remove and reserve § 1208.19.

■ 30. Revise § 1208.22 to read as follows:

§ 1208.22 Effect on exclusion, deportation, and removal proceedings.

An alien who has been granted asylum may not be deported or removed unless his or her asylum status is terminated pursuant to 8 CFR 208.24 or § 1208.24. An alien who is granted withholding of removal or deportation, or deferral of removal, may not be deported or removed to the country to which his or her deportation or removal is ordered withheld or deferred unless the withholding order is terminated pursuant to 8 CFR 208.24 or § 1208.24 or deferral is terminated pursuant to 8 CFR 208.17 or § 1208.17(d) or (e).

■ 31. Amend § 1208.30 by revising the section heading and paragraphs (a), (e), and (g)(2) to read as follows:

§ 1208.30 Credible fear of persecution or torture determinations involving stowaways and applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act.

(a) *Jurisdiction.* The provisions of this subpart apply to aliens subject to sections 235(a)(2) and 235(b)(1) of the Act. Pursuant to section 235(b)(1)(B) of the Act, DHS has exclusive jurisdiction to make the determinations described in this subpart. Except as otherwise provided in this subpart, paragraphs (b) through (g) of this section are the exclusive procedures applicable to stowaways and applicants for admission who are found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act and who receive fear interviews, determinations, and reviews under section 235(b)(1)(B) of the Act. Prior to January 1, 2030, an alien physically present in or arriving in the Commonwealth of the Northern Mariana Islands is ineligible to apply for asylum and may only establish eligibility for withholding of removal pursuant to section 241(b)(3) of the Act or withholding or deferral of removal under the regulations in §§ 1208.16(c) through (f), 1208.17, and 1208.18 issued pursuant to the Convention Against Torture's implementing legislation.

* * * * *

(e) *Determination.* For the standards and procedures for asylum officers in conducting credible fear interviews and hearings, and in making positive and negative credible fear determinations, see 8 CFR 208.30. The immigration judges will review such determinations as provided in paragraph (g) of this section and 8 CFR 1003.42 and 1003.48.

* * * * *

(g) * * *

(2) *Review by immigration judge of a negative credible fear finding.* (i) The asylum officer's negative decision regarding credible fear shall be subject to review by an immigration judge upon the applicant's request, or upon the applicant's refusal either to request or to decline the review after being given such opportunity, in accordance with section 235(b)(1)(B)(iii)(III) of the Act. The immigration judge shall not have the authority to remand the case to the asylum officer.

(ii) The record of the negative credible fear determination, including copies of the Form I–863, the asylum officer's notes, the summary of the material facts, and other materials upon which the determination was based shall be provided to the immigration judge with the negative determination.

(iii) A credible fear hearing shall be closed to the public unless the alien states for the record or submits a written statement that the alien is waiving that requirement; in that event the hearing shall be open to the public, subject to the immigration judge's discretion as provided in 8 CFR 1003.27.

(iv) Upon review of the asylum officer's negative credible fear determination:

(A) If the immigration judge concurs with the determination of the asylum officer that the alien does not have a credible fear of persecution or torture, the case shall be returned to DHS for removal of the alien. The immigration judge's decision is final and may not be appealed.

(B) If the immigration judge finds that the alien, other than an alien stowaway, possesses a credible fear of persecution or torture, the immigration judge shall vacate the Notice and Order of Expedited Removal and refer the case back to DHS for further proceedings consistent with § 1208.2(a)(1)(ii). Alternatively, DHS may commence removal proceedings under section 240 of the Act, during which time the alien may file an application for asylum and withholding of removal in accordance with § 1208.4(b)(3)(i).

(C) If the immigration judge finds that an alien stowaway possesses a credible fear of persecution or torture, the alien shall be allowed to file an application for asylum and withholding of removal before the immigration judge in accordance with § 1208.4(b)(3)(iii). The immigration judge shall decide the application as provided in that section. Such decision may be appealed by either the stowaway or DHS to the Board of Immigration Appeals. If a denial of the application for asylum and for withholding of removal becomes final, the alien shall be removed from the United States in accordance with section 235(a)(2) of the Act. If an approval of the application for asylum or for withholding of removal becomes final, DHS shall terminate removal proceedings under section 235(a)(2) of the Act.

PART 1235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

■ 32. The authority citation for part 1235 continues to read as follows:

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1185 (pursuant to E.O. 13323, 69 FR

241, 3 CFR, 2003 Comp., p. 278), 1201, 1224, 1225, 1226, 1228, 1365a note, 1379, 1731–32; Title VII of Pub. L. 110–229; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458); Public Law 115–218.

■ 33. Amend § 1235.6 by:

■ a. Revising paragraph (a)(2)(i);

■ b. Removing the period at the end of paragraph (a)(2)(ii) and adding ''; or'' in its place; and

■ c. Revising paragraph (a)(2)(iii).

The revisions read as follows:

§ 1235.6 Referral to immigration judge.

(a) * * *

(2) * * *

(i) If an asylum officer determines that the alien does not have a credible fear of persecution or torture, and the alien requests a review of that determination by an immigration judge;

* * * * *

(iii) If an immigration officer refers an applicant in accordance with the provisions of 8 CFR 208.2(b) to an immigration judge.

* * * * *

Alejandro N. Mayorkas,

Secretary of Homeland Security.

Dated: August 13, 2021.

Merrick B. Garland,

Attorney General.

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