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Contents

Federal Register

Vol. 86, No. 162

Wednesday, August 25, 2021

Agricultural Marketing Service

NOTICES

United States Standards for Sorghum, 47469

Agriculture Department

See Agricultural Marketing Service

See Forest Service

Alcohol and Tobacco Tax and Trade Bureau

RULES

Establishment of Viticultural Area:

Virginia Peninsula, 47380–47382

Modification of the Boundaries of Viticultural Areas:

Santa Lucia Highlands and Arroyo Seco, 47377–47380

PROPOSED RULES

Proposed Addition of Singani to the Standards of Identity for Distilled Spirits, 47429–47433

Antitrust Division

NOTICES

Changes under the National Cooperative Research and Production Act:

Dynamic Spectrum Alliance, Inc., 47521

Census Bureau

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Vehicle Inventory and Use Survey, 47471–47472

Centers for Disease Control and Prevention

NOTICES

Award of a Single-Source Cooperative Agreement to Fund the Association of University Centers on Disability, 47499–47500

Centers for Medicare & Medicaid Services

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47500

Children and Families Administration

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Refugee Support Services and RSS Set Aside Sub-Agency List, 47500–47501

Civil Rights Commission

NOTICES

Meetings:

Arkansas Advisory Committee, 47471

Coast Guard

RULES

Safety Zone:

M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Patapsco River, Baltimore, MD, 47384–47386

Monongahela River, Miles 5.8–6.3, Pittsburgh, PA, 47382–47384

PROPOSED RULES

Safety Zone:

Piscataqua River Turning Basin Dredge Project, Portsmouth, NH, 47433–47435

Commerce Department

See Census Bureau

See Foreign-Trade Zones Board

See International Trade Administration

See National Oceanic and Atmospheric Administration

See Patent and Trademark Office

Defense Department

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47480–47481

Drug Enforcement Administration

NOTICES

Bulk Manufacturer of Controlled Substances Application:

Absolute Standards, Inc., 47522

Benuvia Therapeutics Inc., 47521

Importer of Controlled Substances Application:

Cedarburg Pharmaceuticals, 47521–47522

Johnson Matthey Inc., 47522

Energy Department

See Federal Energy Regulatory Commission

NOTICES

Energy Conservation Program for Consumer Products:

Representative Average Unit Costs of Energy, 47482–47483

Environmental Protection Agency

RULES

Air Quality State Implementation Plans; Approvals and Promulgations:

North Carolina; Revision to Approved Motor Vehicle Emissions Budgets, 47387–47390

North Carolina; Monitoring; Recordkeeping; Reporting, 47393–47395

Ohio; Ohio Permit Fee Rule Removal, 47390–47391

Pennsylvania; Emissions Statement Rule Certification for the 2015 Ozone National Ambient Air Quality Standard, 47391–47393

PROPOSED RULES

Air Quality State Implementation Plans; Approvals and Promulgations:

California; Eastern Kern Air Pollution Control District, 47435–47441

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals:

Information Request for the Underground Injection Control Program, 47494–47495

Proposed Reissuance of the National Pollutant Discharge

Elimination System General Permits:

Wastewater Lagoon Systems in Indian Country, Region 8, 47492–47494

Public Water System Supervision Program Revision for the State of Arizona, 47495–47496

Federal Aviation Administration**PROPOSED RULES**

Airworthiness Directives:

- Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes, 47419–47420, 47424–47427
- Airbus Helicopters, 47420–47422
- Costruzioni Aeronautiche Tecnam S.P.A. Airplanes, 47422–47424
- Leonardo S.p.a. Helicopters, 47427–47429
- Rolls-Royce Deutschland Ltd and Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines, 47417–47419

Federal Communications Commission**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47496–47497
- Charter Renewal:
 - North American Numbering Council, 47497
- Meetings:
 - Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States, 47497–47498

Federal Election Commission**NOTICES**

- Meetings; Sunshine Act, 47498

Federal Emergency Management Agency**RULES**

National Flood Insurance Program:

- Conforming Changes to Reflect the Biggert-Waters Flood Insurance Reform Act and the Homeowners Flood Insurance Affordability Act, and Additional Clarifications for Plain Language; Correction, 47395

Federal Energy Regulatory Commission**NOTICES**

Application:

- Brookfield White Pine Hydro, LLC, 47490–47491
- Duke Energy Carolinas, LLC, 47489–47490
- Climate Change, Extreme Weather, and Electric System Reliability; Correction, 47485–47487
- Combined Filings, 47483–47484, 47488–47489, 47491–47492
- Filing:
 - Southeastern Power Administration, 47490
- Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
 - Borderlands Wind, LLC, 47487
 - Minco Wind Energy III, LLC, 47485
 - Octopus Energy LLC, 47485
- Records Governing Off-the-Record Communications, 47484
- Request under Blanket Authorization:
 - Guardian Pipeline, LLC, 47487–47488

Federal Housing Finance Agency**PROPOSED RULES**

- 2022–2024 Enterprise Housing Goals, 47398–47417

Federal Maritime Commission**PROPOSED RULES**

- Passenger Vessel Financial Responsibility, 47441–47457

NOTICES

- Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47498–47499

- Agreements Filed, 47498

Federal Railroad Administration**NOTICES**

- Petition for Waiver of Compliance, 47535–47537

Fish and Wildlife Service**PROPOSED RULES**

- Endangered and Threatened Species:
 - Endangered Species Status for Amur Sturgeon, 47457–47468

Food and Drug Administration**NOTICES**

- Agency Information Collection Activities; Proposals, Submissions, and Approvals:
 - Environmental Impact Considerations, 47501–47504
 - Establishment and Operation of Clinical Trial Data Monitoring Committees, 47505–47507
- Electronic Common Technical Document; Data Standards; Specifications for the Electronic Common Technical Document Validation Criteria, 47504–47505

Foreign-Trade Zones Board**NOTICES**

- Authorization of Production Activity:
 - Swagelok Co., Foreign-Trade Zone 33, Pittsburgh, PA, 47472

Forest Service**NOTICES**

- Environmental Impact Statements; Availability, etc.:
 - Manti-La Sal National Forest, 47469–47471

Health and Human Services Department

- See Centers for Disease Control and Prevention*
- See Centers for Medicare & Medicaid Services*
- See Children and Families Administration*
- See Food and Drug Administration*

Homeland Security Department

- See Coast Guard*
- See Federal Emergency Management Agency*
- See Transportation Security Administration*
- See U.S. Citizenship and Immigration Services*

Interior Department

- See Fish and Wildlife Service*
- See National Park Service*

International Trade Administration**NOTICES**

- Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
 - Common Alloy Aluminum Sheet from the People's Republic of China, 47472–47474
 - Stainless Steel Bar from India, 47474–47476
- Charter Renewal:
 - United States Travel and Tourism Advisory Board, 47472
- Scope Rulings, 47476–47478

International Trade Commission**NOTICES**

- Investigations; Determinations, Modifications, and Rulings, etc.:
 - Certain Laparoscopic Surgical Staplers, Reload Cartridges, and Components Thereof, 47521

Justice Department*See* Antitrust Division*See* Drug Enforcement Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
The National Forensic Laboratory Information System Collection of Analysis Data, 47523

National Aeronautics and Space Administration**NOTICES**

Meetings:

Aerospace Safety Advisory Panel, 47523–47524

National Archives and Records Administration**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 47524

National Endowment for the Arts**NOTICES**

Meetings:

Arts Advisory Panel, 47524

National Foundation on the Arts and the Humanities*See* National Endowment for the Arts**National Highway Traffic Safety Administration****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
National 911 Profile Database, 47537–47539

National Oceanic and Atmospheric Administration**RULES**

Atlantic Highly Migratory Species:
Commercial Aggregated Large Coastal Sharks, Hammerhead Sharks, and Blacktip Sharks in the Gulf of Mexico Region; Retention Limit Adjustment, 47395–47397

NOTICES

Marine Mammals and Endangered Species:
File No. 25740, 47478

National Park Service**NOTICES**

Inventory Completion:

Bureau of Indian Affairs, Washington, DC, 47519
Bureau of Indian Affairs, Washington, DC, and Pueblo Grande Museum, City of Phoenix, AZ, 47510–47512
Mississippi Department of Archives and History, Jackson, MS, 47513–47514
The University of California, Berkeley, Berkeley, CA, and the United States Army Corps of Engineers, San Francisco District, San Francisco, CA, 47512–47513
University of Michigan, Ann Arbor, MI, 47514–47516

Repatriation of Cultural Items:

Gilcrease Museum, Tulsa, OK, 47517–47521
The State Museum of Pennsylvania, Harrisburg, PA, 47518–47519

Request for Nominations:

Cedar Creek and Belle Grove National Historical Park Advisory Commission, 47516–47517
Chesapeake and Ohio Canal National Historical Park Commission, 47516

National Science Foundation**NOTICES**

Meetings:

Advisory Committee for Cyberinfrastructure, 47525

Nuclear Regulatory Commission**NOTICES**

Environmental Impact Statements; Availability, etc.:
Virginia Electric and Power Co.; Dominion Energy Virginia; North Anna Power Station, Unit Nos. 1 and 2, 47525–47526

Patent and Trademark Office**NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Fee Deficiency Submissions, 47478–47480

Postal Service**NOTICES**

Product Change:

First-Class Package Service Negotiated Service Agreement, 47526

Priority Mail Express Negotiated Service Agreement, 47526–47527

Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement, 47527

Priority Mail Negotiated Service Agreement, 47526

Securities and Exchange Commission**NOTICES**

Self-Regulatory Organizations; Proposed Rule Changes:
Cboe Exchange, Inc., 47529–47533
Financial Industry Regulatory Authority, Inc., 47527–47529

State Department**NOTICES**

Charter Renewal:

Bureau of Overseas Buildings Operations' Industry Advisory Group, 47533

Meetings:

Industry Advisory Group, 47533–47534

Surface Transportation Board**NOTICES**

Change of Operators Exemption:

Midcoast Railservice, Inc.; Central Maine and Quebec Railway US, Inc., 47534–47535

Continuance in Control Exemption:

Finger Lakes Railway Corp.; Midcoast Railservice, Inc., 47534

Transportation Department*See* Federal Aviation Administration*See* Federal Railroad Administration*See* National Highway Traffic Safety Administration**Transportation Security Administration****NOTICES**

Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Flight Training Security, 47507–47508

Treasury Department*See* Alcohol and Tobacco Tax and Trade Bureau

U.S. Citizenship and Immigration Services**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Application for Certificate of Citizenship, 47509–47510
Petition for Alien Fiance'(e), 47508–47509

Veterans Affairs Department**RULES**

Government-Furnished Headstones, Markers, and
Medallions; Unmarked Graves, 47386–47387

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals:
Monthly Certification of On-the-Job and Apprenticeship
Training, 47539

Meetings:

Advisory Committee on Disability Compensation, 47539–
47540

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents electronic mailing list, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

12 CFR**Proposed Rules:**

1282.....47398

14 CFR**Proposed Rules:**

39 (6 documents)47417,
47419, 47420, 47422, 47424,
47427

27 CFR

9 (2 documents)47377,
47380

Proposed Rules:

5.....47429

33 CFR

165 (2 documents)47382,
47384

Proposed Rules:

165.....47433

38 CFR

38.....47386
39.....47386

40 CFR

52 (4 documents)47387,
47390, 47391, 47393

Proposed Rules:

52.....47435

44 CFR

59.....47395
61.....47395
62.....47395

46 CFR**Proposed Rules:**

540.....47441

50 CFR

635.....47395

Proposed Rules:

17.....47457

Rules and Regulations

Federal Register

Vol. 86, No. 162

Wednesday, August 25, 2021

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 THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2020–0007; T.D. TTB–172; Ref: Notice No. 192]

RIN 1513–AC55

Modification of the Boundaries of the Santa Lucia Highlands and Arroyo Seco Viticultural Areas

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) is modifying the boundaries of the “Santa Lucia Highlands” viticultural area and the adjacent “Arroyo Seco” viticultural area in Monterey County, California. The boundary modifications include two separate actions—removing approximately 376 acres from the Santa Lucia Highlands viticultural area, and removing 148 acres from the Arroyo Seco viticultural area and placing them entirely within the Santa Lucia Highlands viticultural area. The Santa Lucia Highlands and Arroyo Seco viticultural areas and the modification areas are located entirely within the existing Monterey and Central Coast viticultural areas. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003).

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine’s geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to modify an AVA must include the following:

- In the case of an expansion in size of an AVA, evidence that the proposed expansion area is nationally or locally known by the name of the AVA into which it would be placed;
- In the case of a reduction in size of an AVA, an explanation of the extent to which the current AVA name does not apply to the excluded area;
- An explanation of the basis for defining the boundary of the proposed areas to be realigned, including an explanation of how the boundary of the existing AVA was incorrectly or incompletely defined or is no longer accurate due to new evidence or changed circumstances;
- In the case of an expansion of an AVA, a narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed expansion area similar to the AVA into which it would be placed and distinguish it from adjacent areas outside the established AVA;
- In the case of a reduction of an AVA, a narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that differentiate the proposed reduction area from the established AVA and demonstrate a greater similarity to the features of adjacent areas outside the established AVA;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA boundary modifications, with the proposed boundary modifications clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary modifications based on USGS map markings.

Santa Lucia Highlands-Arroyo Seco Boundary Modification Petition

TTB received a petition from Patrick Shabram on behalf of the Santa Lucia Highlands Wine Artisans, proposing to modify the boundary of the Santa Lucia Highlands AVA (27 CFR 9.139) and the adjacent Arroyo Seco AVA (27 CFR 9.59). The Santa Lucia Highlands AVA and the Arroyo Seco AVA are both located within Monterey County, California, and are both located entirely within the established Monterey AVA (27 CFR 9.98) and the Central Coast AVA (27 CFR 9.75). The proposed boundary modifications include two separate actions—removing approximately 376 acres from the Santa Lucia Highlands viticultural area, and removing 148 acres from the Arroyo Seco viticultural area and placing them entirely within the Santa Lucia Highlands viticultural area.

The first proposal would remove approximately 376 acres from the northern part of the Santa Lucia Highlands AVA. The petition states that the proposed reduction area is within the floodplain of the Salinas River and that no vineyards are planted or proposed in this location. The land removed from the Santa Lucia Highlands AVA would remain within the Monterey AVA and the Central Coast AVA.

According to the petition, the topography and soils within the proposed reduction area are more similar to those of the Monterey and Central Coast AVAs than to the Santa Lucia Highlands AVA. For example, the proposed reduction area is located in the floodplain of the Salinas River, has little-to-no slope, and does not have a clear easterly orientation. By contrast, the majority of the established Santa Lucia Highlands AVA is located on a series of alluvial fans and terraces that have a predominately eastern orientation and slope angles ranging from 5 to 30 percent. Additionally, the soils in the proposed reduction area are primarily Psamments and Fluvents, which are suborders of Entisols that are sandy and have little organic material. These soils are uncommon in the remainder of the Santa Lucia Highlands AVA, where Chualar loams are the most common soil, comprising almost 32 percent of the total soils. Chualar loams are described as very deep, well-drained soils formed in alluvial material from mixed rock sources.

The second proposed modification affects a portion of the shared Santa Lucia Highlands-Arroyo Seco AVA boundary. The modification would remove 148 acres of foothills terrain

from the western side of the Arroyo Seco AVA and place them entirely within the southeastern region of the Santa Lucia Highlands. One vineyard containing approximately 135 acres of vines would be affected by this boundary realignment, and the vineyard owner included a letter of support in the petition. The modification would reduce the size of the Arroyo Seco AVA by less than 1 percent and would not have any impact on the boundaries of the Monterey AVA or the Central Coast AVA.

The proposed realignment area is located on an alluvial fan with an easterly orientation and slope angles above 5 percent. The petition states that these topographic features are similar to the alluvial fans found in the Santa Lucia Highlands AVA, whereas the majority of the Arroyo Seco AVA has a gentler slope that gradually becomes nearly flat and lacks an eastern orientation. The soils in the proposed realignment area are mostly Placentia sandy loam, Chualar, and Arroyo Seco soils. All three soils are found in both the Santa Lucia Highlands and Arroyo Seco AVAs. However, the petition states that this combination of soils is more commonly found within the Santa Lucia Highlands AVA, and Placentia sandy loams are not common in the Arroyo Seco AVA outside of the proposed realignment area.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 192 in the **Federal Register** on July 20, 2020 (85 FR 43754), proposing to modify the boundaries of the Santa Lucia Highlands and Arroyo Seco AVAs. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed reduction area and the proposed realignment area. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed boundary modification areas, see Notice No. 192.

The comment period for Notice No. 192 closed September 18, 2020. In response to Notice No. 192, TTB received a total of eight comments. However, two of the comments did not contain information related to the proposed boundary modifications, or to the AVA program in general, and were not posted to the public docket. All six comments that were posted to the public docket supported the proposed boundary modifications to the Santa Lucia Highlands and Arroyo Seco AVAs.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 192, TTB finds that the evidence provided by the petitioner supports the modifications of the boundaries of the Santa Lucia Highlands and Arroyo Seco AVAs. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB modifies the boundaries of both AVAs effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary modifications of the Santa Lucia Highlands and Arroyo Seco AVAs in the regulatory text published at the end of this final rule.

Maps

The petitioners provided the required maps, and they are listed below in the regulatory text. The modified Santa Lucia Highlands and Arroyo Seco AVA boundaries may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

Impact on Current Wine Labels and Transition Period

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

The approval of the boundary realignments does not affect the Monterey AVA or the Central Coast AVA. Bottlers using “Monterey” or “Central Coast” as an appellation of origin or in a brand name for wines

made from grapes grown within the reduction area or the proposed realignment area may continue to use those appellations of origin if the wines meet the eligibility requirements for the appellation.

The modification of the northern Santa Lucia Highlands AVA boundary means that wines produced mainly from grapes grown in the reduction area may no longer be labeled with “Santa Lucia Highlands” as an appellation of origin. However, TTB does not believe any label holders will be affected by this boundary modification because the petition states that no vineyards exist within the reduction area.

The realignment of the shared Santa Lucia Highlands–Arroyo Seco AVA boundary allows vintners to use “Santa Lucia Highlands,” “Monterey,” and “Central Coast” as appellations of origin for wines made primarily from grapes grown within the realignment area if the wines meet the eligibility requirements for these appellations. For wines whose eligibility for the Arroyo Seco AVA designation depends on the use of grapes grown in the realignment area, a label containing the words “Arroyo Seco” may be used on wine bottled within 2 years from the effective date of the final rule, provided that such label was approved before the effective date of this final rule and that the wine conforms to the standards for use of the label set forth in 27 CFR 4.25 or 4.39(i) in effect prior to this final rule. At the end of this 2-year transition period, if the wine is produced primarily from grapes grown in the realignment area, then a label containing the words “Arroyo Seco” in the brand name or as an appellation of origin would not be permitted on the label. This transition period is described in the regulatory text of this final rule. TTB believes that the 2-year transition period should provide affected label holders with adequate time to use up any old labels.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of

September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

- 2. Section 9.59 is amended by:
 - a. Removing paragraphs (c)(12) and (13);
 - b. Redesignating paragraphs (c)(14) through (21) as paragraphs (c)(17) through (24); and
 - c. Adding new paragraphs (c)(12) through (16) and (d).

The additions read as follows:

§ 9.59 Arroyo Seco.

* * * * *

(c) * * *

(12) Then south following Paraiso Road to its intersection with an unnamed, light-duty road north of Clark Road in Section 20, T18S/R6E.

(13) Then east-southeast along the unnamed road for 0.3 mile to its intersection with an intermittent stream.

(14) Then southwesterly along the intermittent stream for 0.2 mile to its intersection with the western boundary of Section 21, T18S/R6E.

(15) Then south-southwest in a straight line for approximately 0.3 mile to the intersection of Clark Road and the southern boundary of Section 21, T18S/R6E.

(16) Then west-southwest along Clark Road for 0.2 mile to its intersection with an unnamed, light-duty road.

* * * * *

(d) *Transition period.* A label containing the words “Arroyo Seco” in the brand name or as an appellation of origin approved prior to September 24, 2021 may be used on wine bottled before August 25, 2023, if the wine conforms to the standards for use of the label set forth in § 4.25 or § 4.39(i) of this chapter in effect prior to September 24, 2021.

■ 3. Section 9.139 is amended by:

- a. Redesignating paragraphs (c)(10) through (22) as paragraphs (c)(18) through (30);
- b. Revising paragraphs (c)(1) through (9); and
- c. Adding new paragraphs (c)(10) through (17).

The revisions and additions read as follows:

§ 9.139 Santa Lucia Highlands.

* * * * *

(c) * * *

(1) From the beginning point, the boundary follows Limekiln Creek for approximately 1.2 miles northeast to the 120-foot elevation contour.

(2) Then following the 120-foot elevation contour in a general southeasterly direction for approximately 0.9 mile to where it intersects with River Road.

(3) Then following River Road in a southeasterly direction for 0.3 mile to its intersection with an unimproved road near the marked 130-foot elevation.

(4) Then follow a straight line southeast to the terminus of the 110-foot elevation contour.

(5) Then follow a straight line southeast 0.9 mile, crossing onto the Gonzales map, to the Salinas River.

(6) Then follow the Salinas River in a south-southeast direction 0.7 mile, crossing onto the Palo Escrito map, to the intersection of the Salinas River and the 120-foot elevation contour.

(7) Then follow the 120-foot contour south for 1 mile, then southeast to its intersection with River Road.

(8) Then follow River Road east for 0.1 mile to its intersection with an unnamed, light-duty road.

(9) Then follow the unnamed road southeast for 0.2 mile to its intersection with the 160-foot elevation contour.

(10) Then follow the 160-foot elevation contour southeasterly for approximately 5.9 miles to its intersection with River Road.

(11) Then follow River Road southeasterly for approximately 1 mile to the intersection of River, Fort Romie, and Foothill Roads.

(12) Then following Foothill Road in a southeasterly direction for approximately 4 miles to the junction of Foothill Road and Paraiso Roads on the Soledad map.

(13) Then follow Paraiso Road in a southerly direction, crossing onto the Paraiso Springs map, to its intersection with an unnamed, light-duty road north of Clark Road in Section 20, T18S/R6E.

(14) Then follow the unnamed road east-southeast for 0.3 mile to its intersection with an intermittent stream.

(15) Then follow the intermittent stream in a southwesterly direction for

0.2 mile to its intersection with the western boundary of Section 21, T18S/R6E.

(16) Then follow a straight line southwest for 0.3 mile to the intersection of Clark Road and the southern boundary of Section 21, T18S/R6E.

(17) Then follow Clark Road west-southwest for 0.2 mile to its intersection with an unnamed, light-duty road.

* * * * *

Signed: May 24, 2021.

Mary G. Ryan,
Administrator.

Approved: May 28, 2021.

Timothy E. Skud,
Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 2021-18208 Filed 8-24-21; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB-2020-0010; T.D. TTB-173; Ref: Notice No. 195]

RIN 1513-AC71

Establishment of the Virginia Peninsula Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the 673,059-acre “Virginia Peninsula” viticultural area (AVA) in southeastern Virginia. The Virginia Peninsula viticultural area is not located within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202-453-1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27

U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated the functions and duties in the administration and enforcement of these provisions to the TTB Administrator through Treasury Order 120-01, dated December 10, 2013 (superseding Treasury Order 120-01, dated January 24, 2003).

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine’s geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to

establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Virginia Peninsula AVA Petition

TTB received a petition from the Williamsburg Winery proposing the establishment of the “Virginia Peninsula” AVA in southeastern Virginia. The proposed AVA covers 673,059 acres and includes the counties of James City, York, New Kent, and Charles City, as well as the independent cities of Poquoson, Hampton, Newport News, and Williamsburg. The proposed Virginia Peninsula is not located within any other AVA. At the time the petition was submitted, the proposed AVA contained five commercial vineyards covering a total of approximately 112 acres. The petition states that vineyard owners plan to plant an additional 61 acres of vineyards in the next few years. There are also five wineries within the proposed AVA. The petition identifies the distinguishing features of the proposed Virginia Peninsula AVA as its geology and climate.

The proposed Virginia Peninsula AVA, along with the regions to the north and south, is located on the Atlantic Coastal Plain, a region of low topographic relief with elevations ranging from sea level to approximately 250 feet. The York River, along with the Pamunkey River that feeds it, forms the northern boundary of the proposed AVA, and the James River forms the southern boundary. The Atlantic Coastal Plain is underlain by Cenozoic-era sand, mud, and gravel that were deposited during periods of higher sea levels. According to the petition, the geological formations of the proposed AVA are ideal for viticulture, as the bedrock tends to be fractured, allowing for greater root depth and greater rainfall

permeability. To the east of the proposed AVA is the Atlantic Ocean. To the west of the proposed AVA are the Hopewell fault and the Atlantic Seaboard Fall Line, which mark the beginning of the Piedmont and Blue Ridge regions of Virginia. The geology of these regions to the west consists of igneous and metamorphic rock, including granite and gneiss. The bedrock is less porous and less fractured than the bedrock of the proposed AVA. As a result, neither grapevine roots nor rain can penetrate as deeply as within the more fractured bedrock of the proposed AVA.

The proposed Virginia Peninsula AVA is characterized by a humid subtropical climate, with long, humid summers and moderate to mild winters. Average growing season temperatures within the proposed AVA range from an average low of 65 degrees Fahrenheit (F) to an average high of 84 degrees F. The average maximum high temperature is 100 degrees F, while the average minimum low temperature is 35 degrees F. The proposed AVA averages 57 days with temperatures over 90 degrees F and 2.6 days with temperatures over 100 degrees F. According to the petition, temperatures above 90 degrees F reduce photosynthesis in grapevines. Because photosynthesis is the process which produces sugar, reduced photosynthesis rates would require fruit to hang longer to achieve optimal sugar levels. The longer hang time increases the risk of disease or animals destroying a crop before it can be harvested.

The regions to the north and south of the proposed AVA have lower average growing season high temperatures, lower average growing season low temperatures, and lower average maximum high temperatures than the proposed AVA. Average minimum low growing season temperatures to the north are lower than within the proposed Virginia Peninsula AVA, while average minimum low growing season temperatures to the south are the same as within the proposed AVA. The regions to the north and south both have significantly fewer days with temperatures over 90 degrees F than the proposed AVA, and neither region has any days with temperatures over 100 degrees. The petition did not include temperature information for the region to the west of the proposed AVA.

According to the petition, the proposed Virginia Peninsula receives an average of 40.4 inches of rain a year, with an average of 7 inches occurring during the harvest season period of August 21 to November 8. During the harvest period, the proposed AVA has an average of 21 days with rain, and an

average of 4.8 days with over ½ inch of rain. The average annual and growing season rainfall amounts of the proposed AVA are higher than the amounts for the region to the north and less than the amounts for the region to the south. The proposed AVA also has more average harvest days with rain and more average harvest days with over ½ inch of rain than the region to the north, and fewer average harvest days with rain and fewer average harvest days with over ½ inch of rain than the region to the south. The petition did not include rainfall information from the region to the west of the proposed AVA. According to the petition, frequent rainfall during the harvest season, particularly daily amounts over ½ inch, can cause ripening fruits to split and can dilute flavors. The high growing season temperatures combined with frequent rainfall during the typical harvest season mean that vineyard managers within the proposed Virginia Peninsula AVA frequently face the decision whether to pick grapes before they've reached peak ripeness, or to let the fruit continue to ripen but potentially spoil.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 195 in the **Federal Register** on October 1, 2020 (85 FR 61895), proposing to establish the Virginia Peninsula AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 195. In Notice No. 195, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on November 30, 2020. TTB did not receive any comments in response to Notice No. 195.

TTB Determination

After careful review of the petition, TTB finds that the evidence provided by the petitioner supports the establishment of the Virginia Peninsula AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the "Virginia Peninsula" AVA in southeastern

Virginia, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the Virginia Peninsula AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text. The Virginia Peninsula AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at <https://www.ttb.gov/wine/ava-map-explorer>.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of the Virginia Peninsula AVA, its name, "Virginia Peninsula," will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulations clarifies this point. Consequently, wine bottlers using the name "Virginia Peninsula" in a brand name, including a trademark, or in another label reference to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Virginia Peninsula AVA will not affect any existing AVA. The establishment of the Virginia Peninsula AVA will allow vintners to use "Virginia Peninsula" as an appellation of origin for wines made primarily from grapes grown within the Virginia Peninsula AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Add § 9.279 to subpart C to read as follows:

§ 9.279 Virginia Peninsula AVA.

(a) *Name*. The name of the viticultural area described in this section is “Virginia Peninsula”. For purposes of part 4 of this chapter, “Virginia Peninsula” is a term of viticultural significance.

(b) *Approved maps*. The 5 United States Geological Survey (USGS) 1:100,000 scale topographic maps used to determine the boundary of the Virginia Peninsula viticultural area are titled:

- (1) Norfolk, Virginia-North Carolina; 1985;
 - (2) Petersburg, Virginia, 1984;
 - (3) Richmond, Virginia, 1984;
 - (4) Tappahannock, Virginia-Maryland; 1984; and
 - (5) Williamsburg, Virginia, 1984.
- (c) *Boundary*. The Virginia Peninsula viticultural area is located in James City,

York, New Kent, and Charles City Counties, Virginia, as well as the independent Virginia cities of Poquoson, Hampton, Newport News, and Williamsburg. The boundary of the Virginia Peninsula viticultural area is as described below:

(1) The beginning point is on the Norfolk, Virginia-North Carolina map at the intersection of the Newport News City boundary and the James River Bridge. From the beginning point, proceed northwesterly along the Newport News City boundary to the point in the James River where the city boundary becomes concurrent with the James City County boundary; then

(2) Proceed northwesterly along the James City County boundary to the point where it becomes concurrent with the Charles City County boundary; then

(3) Proceed along the Charles City County boundary, crossing onto the Petersburg, Virginia, map and continuing along the Charles City County boundary to the point where it intersects the Henrico County boundary at Turkey Island Creek; then

(4) Proceed north-northeasterly along the concurrent Henrico County-Charles City County boundary to its intersection with the Chickahominy River, which is concurrent with the New Kent County boundary; then

(5) Proceed northwesterly along the Chickahominy River-New Kent County boundary, crossing onto the Richmond, Virginia, map to its intersection with the Hanover County boundary; then

(6) Proceed northeasterly along the Hanover County-New Kent County boundary to its intersection with the King William County boundary at the Pamunkey River; then

(7) Proceed southeasterly along the King William County-New Kent County boundary, crossing onto the Tappahannock, Virginia-Maryland map, to the intersection of the concurrent county boundary with the York River; then

(8) Proceed southeasterly along the York River, crossing onto the Williamsburg, Virginia map, to the intersection of the river with the Chesapeake Bay north of Tue Point; then

(9) Proceed southeast in a straight line to the shoreline of Marsh Point; then

(10) Proceed southeasterly, then southwesterly along the shoreline to the Hampton Roads Bridge-Tunnel; then

(11) Proceed southwest in a straight line, crossing onto the Norfolk, Virginia-North Carolina map, to the northeastern terminus of the Hampton City boundary; then

(12) Proceed southwesterly along the Hampton City boundary to the point

where it intersects with the Newport News City boundary; then

(13) Proceed southwesterly, then northwesterly along the Newport News City boundary, returning to the beginning point.

Signed: June 9, 2021.

Mary G. Ryan,
Administrator.

Approved: June 11, 2021.

Timothy E. Skud,
Deputy Assistant Secretary (Tax, Trade, and
Tariff Policy).

[FR Doc. 2021–18209 Filed 8–24–21; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0638]

RIN 1625–AA00

Safety Zone; Monongahela River, Miles 5.8–6.3, Pittsburgh, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of the Monongahela River from Mile 5.8 to Mile 6.3. 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 Captain of the Port Marine Safety Unit Pittsburgh.

DATES: This rule is effective from 10:30 p.m. through 11:30 p.m. on September 10, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0638 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 MST2 David Deaton, Marine Safety Unit Pittsburgh, U.S. Coast Guard, at telephone 412–221–0807 ext 226, email David.M.Deaton@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. The safety zone must be established by September 10, 2021 and we lack sufficient time to provide a reasonable comment period and then consider those comments before issuing this rule. The NPRM process would delay the establishment of the safety zones until after the scheduled date for the fireworks.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because this action is necessary to ensure the safety of vessels and persons during the fireworks display on September 10, 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 Marine Safety Unit Pittsburgh (COTP) has determined that a safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created from a land-based firework display.

IV. Discussion of the Rule

This rule establishes a safety zone on September 10, 2021, from 10:30 p.m. through 11:30 p.m. The safety zone will cover all navigable waters on the Monongahela River from Mile 5.8 to Mile 6.3. The duration of the safety zone is intended to protect personnel, vessels, and the marine environment from potential hazards created by a firework display.

No vessel or person is 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 (USCG) assigned to units under the operational control of the COTP. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through Marine Safety Unit Pittsburgh at 412–221–0807. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

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 impacts only a 0.5 mile stretch of the Monongahela River for a short amount of time of one hour on one evening. Vessel traffic will be informed about the safety zone through local notices to mariners. Moreover, the Coast Guard will issue LNMs, MSIBs, and BNMs via VHF–FM marine channel 16 about the zone and the rule allows vessels to seek permission from the COTP to transit 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 temporary 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 one hour that will prohibit entry on the Monongahela River from mile 5.8 to mile 6.3, during the firework event. It is categorically excluded from further review under paragraph L60(A) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures 5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **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.T08–0638 to read as follows:

§ 165.T08–0638 Safety Zone; Monongahela River, Miles 5.8–6.3, Pittsburgh, PA

(a) *Location.* The following area is a temporary safety zone: All navigable waters of the Monongahela River from Mile 5.8 to Mile 6.3.

(b) *Effective period.* This section is effective from 10:30 p.m. through 11:30 p.m. on September 10, 2021.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry of persons and vessels into this zone is prohibited unless authorized by the Captain of the Port Marine Safety Unit Pittsburgh (COTP) or a designated representative.

(2) Persons or vessels requiring entry into or passage through the zone must request permission from the COTP or a designated representative. The COTP's representative may be contacted at 412–221–0807.

(3) All persons and vessels shall comply with the instructions of the COTP or a designated representative. Designated COTP representatives include United States Coast Guard commissioned, warrant, and petty officer.

(d) *Information broadcasts.* The Captain COTP or a designated representative will inform the public through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Marine Safety Information Bulletins (MSIBs), as appropriate.

Dated: August 19, 2021.

Eric J. Velez,

Commander, U.S. Coast Guard, Captain of the Port Marine Safety Unit Pittsburgh.

[FR Doc. 2021–18305 Filed 8–24–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2021–0414]

RIN 1625–AA00

Safety Zone; M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Patapsco River, Baltimore, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of the Chesapeake Bay and Patapsco River. This action is necessary to provide for the safety of life on these navigable waters during the movement of the M/V ZHEN HUA 24 while it is transporting four new Super-Post Panamax container cranes to the Port of Baltimore. M/V ZHEN HUA 24 is anticipated to arrive between August 26, 2021 and September 15, 2021. This rulemaking will prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Maryland-National Capital Region or a designated representative.

DATES: This rule is effective from August 26, 2021, to September 15, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG–2021–0414 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 Melissa Kelly, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone (410) 576–2596, Melissa.C.Kelly@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On June 28, 2021, Ports America Chesapeake, LLC notified the Coast Guard that the M/V ZHEN HUA 24 will be transporting four new Super-Post Panamax container cranes to the Port of

Baltimore. The vessel transit is taking place from Shanghai, China. The M/V ZHEN HUA 24 is anticipated to arrive between August 26, 2021, and September 15, 2021. The current estimated arrival date is September 2, 2021, but is subject to change. These cranes will be delivered to, and installed at, the Seagirt Marine Terminal at Baltimore, MD. Prior to transiting to Baltimore, MD, the vessel will arrive in the Chesapeake Bay near Annapolis, MD, to anchor and conduct appropriate cargo configuration for transit. In response, on July 27, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Safety Zone; M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Patapsco River, Baltimore, MD. There, we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this scheduled transit. During the comment period that ended August 11, 2021, we received no comments.

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**. It is impracticable and contrary to the public interest to delay the effective date of this rule, because the safety zone must be effective by August 26, 2021, to protect vessels and persons from the dangers associated with the crane arms extending over the water from the M/V ZHEN HUA 24 as it transits a busy waterway.

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 Maryland-National Capital Region (COTP) has determined that potential hazards associated with the crane delivery operation will be a safety concern for any vessel required to transit the navigation channels in the Chesapeake Bay and the Patapsco River that will meet, pass, or overtake the M/V ZHEN HUA 24. These hazards include the maximum height of the cranes aboard the vessel and the beam width of these cranes, which will severely restrict the M/V ZHEN HUA 24's ability to maneuver and create a hazard to navigation if required to meet or pass other large vessels transiting the navigation channels. The purpose of this rule is to protect personnel, vessels, and the marine environment in the navigable waters around the M/V ZHEN HUA 24 during its transit to the Seagirt Marine Terminal in Baltimore, MD.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published July 27, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone during the inbound transit of the M/V ZHEN HUA 24. The M/V ZHEN HUA 24 is currently anticipated to arrive in Baltimore between August 26, 2021, and September 15, 2021. The current estimated arrival date is September 2, 2021, but is subject to change. Inbound transit is expected to last approximately 7 hours.

The safety zone covers all navigable waters of the Chesapeake Bay and Patapsco River within 500 feet of the M/V ZHEN HUA 24 while it is transiting between Chesapeake Channel Lighted Buoy 90 (LLNR 7825) in position 38°58'18.53" N, 076°23'18.96" W, and the Seagirt Marine Terminal in position 39°15'02.43" N, 076°32'20.50" W, Baltimore, MD. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled crane delivery operation. 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 and duration of the safety zone, which will impact only vessel traffic required to transit certain navigation channels of the Chesapeake Bay and the Patapsco River for a total of no more than 7 enforcement-hours. Although these waterways support both commercial and recreational vessel traffic, the downriver portions of the

waterway will be reopened as the M/V ZHEN HUA 24 transits northward in the Chesapeake Bay and up the Patapsco River. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 about 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 made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 7 enforcement hours that would prohibit entry within certain navigable waters of the Chesapeake Bay and Patapsco River. Normally such actions are 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 is amending 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.T05–0414 to read as follows:

§ 165.T05–0414 Safety Zone; M/V ZHEN HUA 24, Crane Delivery Operation, Chesapeake Bay and Patapsco River, Baltimore, MD.

(a) *Location.* The following area is a safety zone: All waters of the Chesapeake Bay and Patapsco River, within 500 feet of the M/V ZHEN HUA 24 while it is transiting between Chesapeake Channel Lighted Buoy 90 (LLNR 7825) in position 38°58′18.53″ N, 076°23′18.96″ W, and the Seagirt Marine Terminal in position 39°15′02.43″ N, 076°32′20.50″ W, Baltimore, MD. These coordinates are based on WGS 84.

(b) *Definitions.* As used in this section—

Captain of the Port (COTP) means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Maryland-National Capital Region (COTP) in the enforcement of the safety zone.

(c) *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 telephone at 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). 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.

(d) *Enforcement officials.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from August 26, 2021, to September 15, 2021, during inbound transit of the M/V ZHEN HUA 24 to the Port of Baltimore.

Dated: August 18, 2021.

David E. O'Connell,

Captain, U.S. Coast Guard, Captain of the Port Sector Maryland-NCR.

[FR Doc. 2021–18151 Filed 8–24–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 38 and 39

RIN 2900–AQ28

Government-Furnished Headstones, Markers, and Medallions; Unmarked Graves

AGENCY: Department of Veterans Affairs.
ACTION: Final rule; correction.

SUMMARY: On August 6, 2021, the Department of Veterans Affairs (VA) published in the **Federal Register** a final rule that amended regulations regarding the provision of Government-furnished headstones, markers, and medallions to eligible individuals. This correction addresses minor technical errors in the published final rule and revises the amendatory text to correct a section reference.

DATES: This correction is effective September 7, 2021.

FOR FURTHER INFORMATION CONTACT: Jane Kang, Director, Legislative and Regulatory Service, National Cemetery Administration (42E), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–6216 (this is not a toll-free telephone number).

SUPPLEMENTARY INFORMATION: VA is correcting its final rule 2900–AQ28,

Government-Furnished Headstones, Markers, and Medallions; Unmarked Graves to fix technical errors and dropped amendments, published on August 6, 2021, in the **Federal Register** at 86 FR 43091.

In FR Rule Doc. No. 2021–16660, beginning on page 43091 in the August 6, 2021 issue, make the following corrections.

Corrections

■ 1. On page 43092 in the regulatory framework chart, in the column titled “Location of applicable provisions in the final regulation,” line 3, remove “§ 38.600(a)(1)–(a)(9)” and add “38.600(a)” in its place.

§ 38.600 [Corrected]

■ 2. On page 43098, column 1, line 10, in § 38.600(b), remove “paragraphs (a)(1) through (9)” and add “paragraph (a)” in its place.

§ 38.630 [Corrected]

■ 3. On page 43100, column 1, line 16, in § 38.630(c)(1)(ii), remove “§ 38.600(a)(8)” and add § 38.600(a)” in its place.

Dated: August 20, 2021

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2021–18285 Filed 8–24–21; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0515; FRL–8852–02–R4]

Air Plan Approval; North Carolina; Revision to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the North Carolina State Implementation Plan (SIP), submitted on July 16, 2020, by the State of North Carolina, through the North Carolina Department of Environment and Natural Resources, Division of Air Quality (NCDAQ) for the purpose of allocating a portion of the available 2026 safety margin in the 2008 8-hour Ozone Maintenance Plan to the 2026 nitrogen oxides (NO_x) and volatile organic compounds (VOC) motor vehicle emissions budgets (“MVEBs” or

“budgets”) for the North Carolina portion of the Charlotte-Rock Hill, NC-SC bi-state Area (hereinafter referred to as the “North Carolina portion of the Charlotte Maintenance Area”) to account for uncertainty associated with the mobile emissions model and unanticipated growth in vehicle miles traveled for the North Carolina portion of the Charlotte Maintenance Area. The revision also updates the 2026 MVEBs which are used for transportation conformity. NCDAQ’s July 16, 2020, submission supplements the revised 2008 8-hour Ozone Maintenance Plan submitted by NCDAQ on July 25, 2018, and approved by EPA on September 11, 2019. EPA is approving North Carolina’s July 16, 2020, supplemental SIP revision pursuant to the Clean Air Act (CAA or Act) and deeming the MVEBs adequate for transportation conformity purposes because the SIP meets all the statutory and regulatory requirements.

DATES: This rule is effective September 24, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2020–0515. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, *i.e.*, 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 Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dianna Myers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9207. Ms. Dianna Myers can also be reached via electronic mail at Myers.Dianna@epa.gov.

SUPPLEMENTARY INFORMATION:

I. This Action

EPA is approving NCDAQ’s July 16, 2020, SIP revision allocating a portion of the available safety margin to revise the 2026 NO_x and VOC budgets for the North Carolina portion of Charlotte 2008 8-hour Ozone Maintenance Area for transportation conformity purposes. NCDAQ requested approval of the July 16, 2020, SIP revision in order to account for unanticipated changes in the travel demand model, such as unanticipated growth in vehicle miles traveled, changes and uncertainty in vehicle mix assumptions, and uncertainty associated with mobile emissions modeling.

Upon approval, the revised 2026 budgets from NCDAQ’s July 16, 2020, SIP revision will replace the existing budgets in the State’s 2008 8-hour Ozone Maintenance Plan revision approved on September 11, 2019. *See* 84 FR 47889. These newly revised NO_x and VOC 2026 budgets must be used in future transportation conformity analyses for the Area according to the transportation conformity rule. *See* 40 CFR 93.118. Also, all emissions inventories (on-road, point, area, and nonroad) from NCDAQ’s September 11, 2019, SIP revision remain the same. This action only approves the allocation of a portion of the available safety margin to the 2026 NO_x and VOC MVEBs. EPA is approving North Carolina’s July 16, 2020, SIP revision because it continues to demonstrate maintenance for the Charlotte Maintenance Area.

II. Background

Effective July 20, 2012, EPA designated the Charlotte-Rock Hill, NC-SC Area as Marginal nonattainment for the 2008 8-hour ozone national ambient air quality standard (hereinafter referred to as NAAQS or standard). The North Carolina portion of the Charlotte 2008 Maintenance Area includes Mecklenburg in its entirety and portions of Cabarrus, Gaston, Iredell, Lincoln, Rowan, and Union counties. The Charlotte Maintenance Area also includes a portion of York County located in Rock Hill, South Carolina. *See* 77 FR 30088. The North Carolina portion of the Charlotte Maintenance Area is comprised of three metropolitan planning organizations (MPOs): The Charlotte Regional Transportation Planning Organization (CRTPO) which covers Iredell, Mecklenburg, and Union counties; the Cabarrus-Rowan Metropolitan Planning Organization (CRMPO) which covers Cabarrus and Rowan counties; and the Gaston-Cleveland-Lincoln Metropolitan

Planning Organization (GCLMPO) which covers Gaston, Cleveland, and Lincoln counties. Although Cleveland County is included in the GCLMPO planning boundary, it was not included in the North Carolina portion of the Charlotte Maintenance Area. Each MPO has its own budget referred to as a “sub-area budget or sub-area MVEBs.” The York County, South Carolina portion of this maintenance area has a separate MPO and budgets. The South Carolina portion of the maintenance area implements transportation conformity independent of the North Carolina portion.

EPA originally approved NCDAQ’s 2008 8-hour ozone redesignation request and maintenance SIP for the North Carolina portion of the Charlotte Maintenance Area on July 28, 2015 (80 FR 44873), with base year NO_x and VOC actual emissions inventories for 2014; projected, future, interim year inventories for 2015, 2018, and 2022; and projected final year emission

inventory for 2026. On August 17, 2015 (80 FR 49164), EPA approved North Carolina’s section 110(l) noninterference demonstration requesting relaxation of the Federal Reid Vapor Pressure from 7.8 pounds per square inch (psi) to 9.0 psi and a revision to the 2026 NO_x and VOC sub-area MVEBs for Mecklenburg and Gaston Counties only. *See* 80 FR 44868.

On September 11, 2019 (84 FR 47889), EPA approved NCDAQ’s July 25, 2018, SIP revision related to North Carolina’s I/M Program. The September 11, 2019, SIP approval updated the on-road mobile source inventory and revised the 2026 sub-area VOC and NO_x budgets; these remain the current SIP-approved MVEBs and inventories. The revised 2026 MVEBs became effective on October 11, 2019.

EPA’s analysis of North Carolina’s July 16, 2020, SIP submittal indicates that maintenance will continue to be demonstrated for the Charlotte Maintenance Area after allocation of a

portion of the safety margin to the 2026 MVEBs because the total level of emissions from all source categories remains equal to or less than the attainment level of emissions.

In a notice of proposed rulemaking (NPRM), published in the **Federal Register** on June 23, 2021 (86 FR 32850), EPA proposed to approve the July 16, 2020, SIP revision. The details of North Carolina’s submittal and the rationale for EPA’s action are further explained in the NPRM. Comments on the June 23, 2021, NPRM were due on or before July 23, 2021. EPA did not receive any comments.

Tables 1 through 3, below, provide the newly revised 2026 NO_x and VOC sub-area MVEBs with the new safety margin¹ allocations in kilograms per day (kg/day) for transportation conformity purposes (2014 is only shown for illustration because no changes are being made to the MVEBs for that year).

TABLE 1—CABARRUS ROWAN METROPOLITAN PLANNING ORGANIZATION (CRMPO) MVEBS IN 2014 AND 2026
[kg/day]*

	2014 NO _x	2014 VOC	2026 NO _x	2026 VOC
Base On-road Emissions	11,814	7,173	3,381	3,371
Safety margin allocated to MVEB .....	.....	.....	1,522	1,517
Conformity MVEB	11,814	7,173	4,903	4,888

* Includes the portion of Cabarrus and Rowan Counties in the maintenance area.

TABLE 2—GASTON-CLEVELAND-LINCOLN METROPOLITAN PLANNING ORGANIZATION (GCLMPO) MVEBS IN 2014 AND 2026
[kg/day]*

	2014 NO _x	2014 VOC	2026 NO _x	2026 VOC
Base On-road Emissions	10,079	5,916	2,681	2,468
Safety margin allocated to MVEB .....	.....	.....	1,087	1,004
Conformity MVEB	10,079	5,916	3,768	3,472

* Includes the portion of Gaston and Lincoln counties in the maintenance area. Although Cleveland County is included in the MPO, it is not included in the Charlotte ozone maintenance area.

TABLE 3—CHARLOTTE REGIONAL TRANSPORTATION PLANNING ORGANIZATION (CRTPO)—ROCKY RIVER RURAL PLANNING ORGANIZATION (RRRPO) MVEBS IN 2014 AND 2026
[kg/day]*

	2014 NO _x	2014 VOC	2026 NO _x	2026 VOC
Base On-road Emissions	32,679	18,038	8,870	8,655
Safety margin allocated to MVEB .....	.....	.....	3,371	3,288
Conformity MVEB	32,679	18,038	12,241	11,943

* Includes all of Mecklenburg County and a portion of Iredell and Union Counties in the maintenance area.

The remaining safety margin after the allocation to the 2026 MVEBs is 63.31 tons per day (tons/day) and 13.73 tons/

day for NO_x and VOC, respectively is provided below in Table 4.

¹ A safety margin is the difference between the attainment level of emissions from all source

categories (*i.e.*, point, area, on-road, and nonroad)

and the projected level of emissions in the maintenance year from all source categories.

TABLE 4—NEW SAFETY MARGINS FOR THE NORTH CAROLINA PORTION OF THE CHARLOTTE MAINTENANCE AREA

Year	NO _x (tons/day)	VOC (tons/day)
2014	N/A	N/A
2015	– 5.99	– 2.03
2018	– 45.49	– 13.30
2022	– 63.74	– 15.84
2026	– 63.31	– 10.73

III. Final Action

EPA has evaluated North Carolina's submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy.

Therefore, EPA is approving NCDQA's July 16, 2020 SIP revision requesting to revise the Charlotte 2008 8-hr Ozone Maintenance Plan in order to allocate a portion of the available safety margin to the 2026 NO_x and VOC MVEBs. The revised MVEBs ensure continued attainment of the 2008 8-hour ozone NAAQS through the maintenance year 2026. In addition, EPA is deeming the MVEBs adequate for transportation conformity purposes because the budgets meet the adequacy criteria in the conformity rule at 40 CFR 93.118(e)(4). Within 24 months from the effective date of this approval, the transportation partners are required to demonstrate conformity to the revised NO_x and VOC MVEBs pursuant to 40 CFR 93.104(e).

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

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

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

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

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

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

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994). The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: August 18, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

■ 2. In section 52.1770 in paragraph (e) amend the table by adding a new entry for “MVEB Revision to the 2008 8-hour ozone Maintenance Plan for the North Carolina portion of the bi-state Charlotte Area” at the end of the table to read as follows:

§ 52.1770 Identification of plan.

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

EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Federal Register citation	Explanation
* * * MVEB Revision to the 2008 8-hour ozone Maintenance Plan for the North Carolina portion of the bi-state Charlotte Area.	7/16/2020	8/25/2021	[Insert citation of publication]	.....

[FR Doc. 2021-18247 Filed 8-24-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52****[EPA-R05-OAR-2020-0602; FRL-8833-02-R5]****Air Plan Approval; Ohio; Ohio Permit Fee Rule Removal****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving under the Clean Air Act (CAA), a revision to Ohio's State Implementation Plan (SIP), submitted by the Ohio Environmental Protection Agency (OEPA) on November 12, 2020, and supplemented on February 11, 2021. OEPA requested to remove the Ohio Administrative Code (OAC) Permit Fees rule provisions from the Ohio SIP because they no longer exist at the state level and have been superseded by the fee system in Ohio's Title V permitting program and the Ohio Revised Code (ORC). OEPA rescinded the permit fee rules at the state level in 2003. EPA proposed to approve this action on April 13, 2021, and received no comments.

DATES: This final rule is effective on September 24, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2020-0602. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through www.regulations.gov or at the Environmental Protection Agency,

Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Richard Angelbeck, Environmental Scientist, at (312) 886-9698 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Richard Angelbeck, Environmental Scientist, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-9698, angelbeck.richard@epa.gov.

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

I. Background Information

On April 13, 2021, EPA proposed to approve the removal of all OAC Chapter 3745-45 provisions from the Ohio SIP (86 FR 19174). An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking, and will not be restated here. The public comment period for this proposed rule ended on May 13, 2021. EPA received no comments on the proposal. Therefore, we are finalizing our action as proposed.

II. Final Action

EPA is approving the removal of Ohio's OAC Chapter 3745-45 Permit Fee rule from the Ohio SIP. Removing OAC Chapter 3745-45 from the Ohio SIP is consistent with Federal regulations governing state permitting programs and would not interfere with reasonable further progress or attainment of any national ambient air quality standards.

III. Incorporation by Reference

In this rule, EPA is amending regulatory text that includes incorporation by reference. As described in the amendments to 40 CFR part 52 set

forth below, EPA is removing provisions of the EPA-Approved Ohio Regulations from the Ohio SIP, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make the SIP generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews.

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

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

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

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen

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

Dated: August 18, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

§ 52.1870 [Amended]

■ 2. In § 52.1870, the table in paragraph (c) is amended by removing the heading “Chapter 3745–45 Permit Fees” and the entries for 3745–45–01 through 3745–45–05.

[FR Doc. 2021–18166 Filed 8–24–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0706; FRL–8845–02–R3]

Air Plan Approval; Pennsylvania; Emissions Statement Rule Certification for the 2015 Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision formally submitted by the Commonwealth of Pennsylvania. This revision fulfills Pennsylvania’s emissions statement requirement for the 2015 ozone national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on September 24, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2020–0706. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT:

Serena Nichols, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2053. Ms. Nichols can also be reached via electronic mail at Nichols.Serena@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 14, 2021 (86 FR 26448), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of the Commonwealth’s certification that the Commonwealth’s emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA for the 2015 ozone NAAQS. The formal SIP revision was submitted by the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), on April 23, 2020.

II. Summary of SIP Revision and EPA Analysis

Pennsylvania’s emissions statement requirements are codified at 25 Pa Code chapter 135. Specifically, section 135.21, in accordance with CAA section 182(a)(3)(B), applies to nitrogen oxides (NO_x) and volatile organic compounds (VOC) sources within marginal (or worse) nonattainment areas, as well as major NO_x and VOC sources located in attainment areas located within the ozone transport region (*i.e.* the remainder of the Commonwealth). Affected sources are required annually to provide PADEP with a statement containing the source’s actual NO_x and VOC emissions, the method used to calculate those emissions, the time period over which the calculations are based, and a certification by an appropriate company officer that the statement is accurate. 25 Pa Code 135.21 also contains a waiver for sources emitting less than 25 tons per year, in accordance with CAA section 182(a)(3)(B)(ii). Additionally, 25 Pa Code 135.5 contains recordkeeping requirements necessary to document the

data presented in the annual emissions statements.

PADEP's April 23, 2020 submittal contains a certification that the existing emissions statement program remains adequate under the revised, 2015 ozone NAAQS. Other specific requirements of PADEP's April 23, 2020 submittal and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

III. Final Action

EPA is approving, as a SIP revision, the Commonwealth of Pennsylvania's April 23, 2020 emissions statement certification for the 2015 ozone NAAQS as approvable under CAA section 182(a)(3)(B). The Commonwealth's emissions statement certification certifies that the Commonwealth's existing SIP-approved emissions statement program under 25 Pa Code chapter 135 satisfies the requirements of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

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

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

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

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

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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

This action is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action approving the District's emissions statement certification for the 2015 ozone NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 17, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry for "Emissions Statement Certification for the 2015 Ozone National Ambient Air Quality Standard" at the end of the table to read as follows:

§ 52.2020 Identification of plan.

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

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Emissions Statement Certification for the 2015 Ozone National Ambient Air Quality Standard.	The Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) nonattainment area for the 2015 ozone NAAQS.	4/23/20	8/25/21, [insert FEDERAL REGISTER citation].	Certification that Pennsylvania's previously SIP-approved regulations at 25 Pa Code chapter 135 meet the emissions statement requirements of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS.

* * * * *

[FR Doc. 2021-18159 Filed 8-24-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0716; FRL-8859-02-R4]

Air Plan Approval; North Carolina; Monitoring; Recordkeeping; Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving changes to the North Carolina State Implementation Plan (SIP) submitted through the North Carolina Division of Air Quality (NCDAQ) on October 9, 2020. The SIP revision seeks to modify the State's monitoring, recordkeeping, and reporting regulations by adding one definition, adding references to approved testing methods, updating the reference format, and making minor changes to general formatting and language use for clarity purposes. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective September 24, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2020-0716. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, *i.e.*, 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 Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta,

Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Sarah LaRocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8994. Ms. LaRocca can also be reached via electronic mail at larocca.sarah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

EPA is approving changes to the following SIP-approved regulations under 15A North Carolina Administrative Code Subchapter 02D,¹ Section .0600, Monitoring: Recordkeeping; Reporting;² Rule .0601, *Purpose and Scope*; Rule .0602, *Definitions*; Rule .0604, *Exceptions to Monitoring and Reporting Requirements*; Rule .0605, *General Recordkeeping and Reporting Requirements*; and Rule .0606, *Sources Covered by Appendix P of 40 CFR part 51*,³ of the North Carolina SIP, submitted on October 9, 2020.

II. EPA's Analysis of North Carolina's Submittal

The changes that are the subject of this rulemaking revise monitoring, recordkeeping, and reporting regulations under Subchapter 02D of the North Carolina SIP. Specifically, they

revise the SIP by changing a heading, adding one definition, adding references to approved testing methods, updating the reference format, and making minor changes to general formatting and language use for clarity purposes. EPA finds that the changes do not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable CAA requirement.

In a notice of proposed rulemaking (NPRM) published on May 20, 2021 (86 FR 27349), EPA proposed to approve North Carolina's SIP submission provided on October 9, 2020. The May 20, 2021, NPRM provides additional detail regarding the background and rationale for EPA's action. Comments on the May 20, 2021, NPRM were due on or before June 21, 2021. EPA received no comments on the May 20, 2021 NPRM.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the following rules in 15A NCAC Subchapter 02D, Section .0600, Monitoring: Recordkeeping; Reporting, with a state-effective date of November 1, 2019: Rule .0601, *Purpose and Scope*; Rule .0602, *Definitions*; Rule .0604, *Exceptions to Monitoring and Reporting Requirements*; Rule .0605, *General Recordkeeping and Reporting Requirements*; and Rule .0606, *Sources Covered by Appendix P of 40 CFR part 51*. The changes revise a heading, add one definition, add references to approved testing methods, update the reference format, and make minor changes to general formatting and language to provide clarity to the monitoring, recordkeeping, and reporting requirements. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the

¹ In the table of North Carolina regulations federally approved into the SIP at 40 CFR 52.1770(c), 15A NCAC 02D is referred to as "Subchapter 2D Air Pollution Control Requirements."

² Section .0600 is titled "Air Contaminants; Monitoring; Reporting" in the CFR table. This is being amended in this notice to read "Monitoring: Recordkeeping; Reporting".

³ The State submitted the SIP revisions following the readoption of several air regulations, including .0601, .0602, .0604, .0605, and .0606, pursuant to North Carolina's 10-year regulatory readoption process at North Carolina General Statute 150B-21.3A.

SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.⁴

IV. Final Action

EPA is approving North Carolina’s October 9, 2020, SIP revisions, which contain changes to the following regulations under 15A NCAC Subchapter 02D: Section .0600, Monitoring; Recordkeeping; Reporting; Rule .0601, *Purpose and Scope*; Rule .0602, *Definitions*; Rule .0604, *Exceptions to Monitoring and Reporting Requirements*; Rule .0605, *General Recordkeeping and Reporting Requirements*; and Rule .0606, *Sources Covered by Appendix P of 40 CFR Part 51*. The changes are consistent with the CAA.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule

cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 25, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: August 19, 2021.

John Blevins,
Acting Regional Administrator, Region 4.

Accordingly, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

- 2. In § 52.1770 amend paragraph (c)(1) by revising the heading for “Section .0600” and the entries for “Section .0601”, “Section .0602”; and “Section .0604”; “Section .0605”; and “Section .0606” to read as follows:

§ 52.1770 Identification of plan.

* * * * *
(c) * * *
* * * * *

⁴ See 62 FR 27968 (May 22, 1997).

(1) EPA APPROVED NORTH CAROLINA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
Section .0600 Monitoring: Recordkeeping: Reporting				
Section .0601	Purpose and Scope	11/1/2019	8/25/2021, [Insert citation of publication].	
Section .0602	Definitions	11/1/2019	8/25/2021, [Insert citation of publication].	
Section .0604	Exceptions to Monitoring and Reporting Requirements.	11/1/2019	8/25/2021, [Insert citation of publication].	
Section .0605	General Recordkeeping and Reporting Requirements.	11/1/2019	8/25/2021, [Insert citation of publication].	
Section .0606	Sources Covered by Appendix P of 40 CFR Part 51.	11/1/2019	8/25/2021, [Insert citation of publication].	
*	*	*	*	*

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[FR Doc. 2021-18248 Filed 8-24-21; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Parts 59, 61, and 62**

[Docket ID FEMA-2018-0026]

RIN 1660-AA95

National Flood Insurance Program: Conforming Changes To Reflect the Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12) and the Homeowners Flood Insurance Affordability Act of 2014 (HFIAA), and Additional Clarifications for Plain Language; Correction**AGENCY:** Federal Emergency Management Agency; DHS.**ACTION:** Final rule; correction.

SUMMARY: On July 20, 2020, FEMA published in the **Federal Register** a final rule revising the National Flood Insurance Program (NFIP) regulations to codify certain provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and the Homeowner Flood Insurance Affordability Act of 2014, and to clarify certain existing NFIP rules relating to NFIP operations and the Standard Flood Insurance Policy. This final rule provides corrections to those instructions, to be used in lieu of the information published July 20.

DATES: This correction is effective October 1, 2021.**ADDRESSES:** The docket for this rulemaking is available for inspection using the Federal eRulemaking Portal at

<http://www.regulations.gov> and can be viewed by following that website's instructions.

FOR FURTHER INFORMATION CONTACT:

Kelly Bronowicz, Director, Policyholder Services Division, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 400 C Street SW, Washington, DC 20472, (202) 557-9488.

SUPPLEMENTARY INFORMATION: In FR Doc. 2020-09260, beginning on page 43946 in the **Federal Register** of Monday, July 20, 2020, the following correction is made:

PART 61—INSURANCE COVERAGE AND RATES**Appendix A(2) to Part 61 [Corrected]**

■ 1. On page 43969, in the second column, in Appendix A(2) to Part 61, “*Improvements. Fixtures, alterations, installations, or additions comprising a part of the dwelling or apartment in which you reside.*” is corrected to read “*Improvements. Fixtures, alterations, installations, or additions comprising a part of the building.*”

Deanne B. Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021-18260 Filed 8-24-21; 8:45 am]

BILLING CODE 9111-52-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 201124-0317; RTID 0648-XB306]

Atlantic Highly Migratory Species; Commercial Aggregated Large Coastal Sharks, Hammerhead Sharks, and Blacktip Sharks in the Gulf of Mexico Region; Retention Limit Adjustment

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS is adjusting the commercial retention limit for directed shark limited access permit holders from 45 to 55 large coastal sharks (LCS) other than sandbar sharks per vessel per trip in the Gulf of Mexico region. In the eastern Gulf of Mexico sub-region, this applies to any shark in the aggregated LCS, hammerhead, or blacktip management groups. In the western Gulf of Mexico sub-region, because aggregated LCS and hammerhead management groups are closed, this increase applies only to the blacktip management group. The retention limit will remain at 55 LCS other than sandbar sharks through the remainder of 2021, or until NMFS announces via a notification in the **Federal Register** another adjustment to the retention limit or a fishery closure. This retention limit adjustment affects anyone with a directed shark limited access permit fishing for LCS in the Gulf of Mexico region.

DATES: This retention limit adjustment is effective on August 24, 2021, through December 31, 2021, or until NMFS announces via a notification in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

FOR FURTHER INFORMATION CONTACT:

Lauren Latchford at 301-427-8503; lauren.latchford@noaa.gov.

SUPPLEMENTARY INFORMATION: The Atlantic shark fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP) and its amendments are implemented by regulations at 50 CFR part 635. The retention limits and inseason adjustment criteria for sharks are described in § 635.24(a). The commercial shark quotas, including the regional and sub-regional definitions, are described in section § 635.27(b).

The Atlantic shark fishery has separate regional (Gulf of Mexico and Atlantic) quotas for all management groups except those for blue shark, porbeagle shark, pelagic sharks (other than porbeagle or blue sharks), and the shark research fishery. The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N lat., proceeding due east. Any water and land to the south of that boundary is considered, for the purposes of setting and monitoring quotas, to be within the Gulf of Mexico region. This inseason action affects the aggregated LCS, hammerhead, and blacktip shark management groups in the Gulf of Mexico region.

Under § 635.24(a)(8), NMFS may adjust the commercial retention limits in the shark fishery during the fishing season. Before making any adjustment, NMFS must consider specified regulatory criteria (see § 635.24(a)(8)(i) through (vi)). After considering these criteria as discussed below, NMFS has concluded that increasing the retention limit in the Gulf of Mexico region will allow use of available quotas for those groups. Therefore, NMFS is increasing retention limits for directed shark limited access permit holders from 45 to 55 LCS other than sandbar sharks per vessel per trip in the Gulf of Mexico region. In the eastern Gulf of Mexico sub-region, this applies to any shark in the aggregated LCS, hammerhead, or blacktip management groups. In the western Gulf of Mexico sub-region, because aggregated LCS and hammerhead management groups are

closed, this increase only applies to the blacktip management group.

NMFS considered the inseason retention limit adjustment criteria listed at § 635.24(a)(8)(i) through (vi), which include:

- The amount of remaining shark quota in the relevant region.

Based on dealer reports through July 9, 2021, approximately 45 percent of the 85.5-metric tons (mt) dressed weight (dw) quota for aggregated LCS and approximately 42 percent of the 13.4-mt dw quota for the hammerhead shark management group have been harvested in the eastern Gulf of Mexico sub-region. In addition, based on dealer reports through July 9, 2021, approximately 23 percent of the 37.7-mt dw quota for the eastern Gulf of Mexico sub-region blacktip and approximately 61 percent of the 347.2-mt dw quota for the western Gulf of Mexico sub-region blacktip have been harvested. NMFS is increasing the retention limit to 55 LCS other than sandbar sharks per vessel per trip in the Gulf of Mexico region to facilitate the use of available quota.

- The catch rates in the relevant region.

Based on the current dealer reports, the average daily catch rates of landings in the eastern Gulf of Mexico sub-region for species in the aggregated LCS, hammerhead, and blacktip shark management groups, and the western Gulf of Mexico sub-region for the blacktip shark management group are low. Using 2021 catch rates through July 9, 2021, and comparing to catch rates from previous years, projections indicate that landings would not reach the quota before the end of 2021. A higher retention limit authorized under this action will provide increased fishing opportunities and facilitate use of available quota in the eastern and western Gulf of Mexico sub-regions.

- The estimated date of fishery closure based on projections.

If landings of either the aggregated LCS or hammerhead shark management groups reach 80 percent of their respective quotas, and those landings are projected to reach 100 percent of the quota by the end of the year, NMFS would, as required by the regulations at § 635.28(b)(3), close the eastern Gulf of Mexico sub-regional aggregated LCS and hammerhead shark management groups since they are “linked quotas.” The blacktip shark quotas in the eastern and western Gulf of Mexico sub-regions are not linked to the aggregated LCS or hammerhead shark sub-regional quotas. If blacktip shark landings reach, or are projected to reach a threshold of 80 percent of the available quota and are projected to reach 100 percent before

the end of the fishing season, NMFS would close blacktip sharks, consistent with existing regulations. Current overall regional catch rates for aggregated LCS and, hammerhead shark management groups in the eastern Gulf of Mexico sub-region, and blacktip sharks in the eastern and western Gulf of Mexico sub-regions indicate all management groups would likely remain open for the remainder of the year. The higher retention limit should increase the likelihood of full utilization of the respective quotas, while also allowing these management groups to remain open for the remainder of the year.

- The effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments.

Increasing the retention limit for the aggregated LCS and hammerhead management groups in the Gulf of Mexico region from 45 to 55 LCS other than sandbar sharks per vessel per trip would continue to allow for fishing opportunities throughout the remainder of the year consistent with objectives established in the 2006 Consolidated HMS FMP and would manage these groups within previously-established, science-based quotas, consistent with requirements in relation to preventing overfishing and rebuilding overfished stocks.

- The variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species.

The directed shark fishery in the Gulf of Mexico region is composed of a mix of species, with a high abundance and distribution of aggregated LCS caught in conjunction with hammerhead and blacktip sharks. As a result, by increasing the harvest and landings on a per-trip basis, fishermen throughout the Gulf of Mexico region will likely experience equitable fishing opportunities and have a chance to fully utilize the available quotas.

- The effects of catch rates in one part of a region precluding vessels in another part of that region from having a reasonable opportunity to harvest a portion of the relevant quota.

One of NMFS's goals for the 2021 commercial shark fishery is to facilitate fishing opportunities throughout the fishing season in the Gulf of Mexico region. While dealer reports indicate that, under current catch rates, the aggregated LCS and hammerhead shark management groups in the eastern Gulf of Mexico region and blacktip sharks in the eastern and western Gulf of Mexico sub-regions would remain open for the remainder of the year, the catch rates also indicate that the quotas would

likely not be fully harvested under the current retention limit. If the harvest of these species is increased through an increased retention limit, NMFS estimates that the fishery would remain open for the remainder of the year and fishermen would have a reasonable opportunity to harvest a large portion of the quota.

On December 1, 2020 (85 FR 77007), NMFS announced in a final rule that the fishery for the aggregated LCS and hammerhead shark management groups for the eastern Gulf of Mexico sub-region would open on January 1 with a quota of 85.5 mt dw (188,593 pounds (lb) dw) and 13.3 mt dw (29,421 lb dw), respectively, blacktip sharks in the eastern and western Gulf of Mexico sub-regions would open on January 1 with a quota of 37.7 mt dw (83,158 lb dw) and 347.2 mt dw (765,392 lb dw), respectively, and a commercial retention limit of 45 LCS other than sandbar sharks per trip for directed shark limited access permit holders. NMFS explained that if it appeared that the quota was being harvested too slowly, NMFS would consider increasing the retention limit, consistent with the applicable regulatory requirements. Based on dealer reports through July 9, 2021, approximately 45 percent of the 85.5 mt dw quota for aggregated LCS and approximately 42 percent of the 13.4 mt dw quota for the hammerhead shark management group have been harvested in the eastern Gulf of Mexico sub-region. In addition, based on dealer reports through July 9, 2021, approximately 23 percent of the 37.7 mt dw quota for the eastern Gulf of Mexico sub-region blacktip and approximately 61 percent of the 347.2 mt dw quota for the western Gulf of Mexico sub-region blacktip have been harvested. Based on the current dealer reports, the average daily catch rates of landings in the eastern Gulf of Mexico sub-region for aggregated LCS, hammerhead, and blacktip, and in the western Gulf of Mexico sub-region for blacktip are low (§ 635.24(a)(8)(ii)). A higher retention limit should increase the likelihood of

full utilization of available quota in the Atlantic region, while also allowing the fishery to operate for the remainder of the year.

Accordingly, as of August 24, 2021, NMFS is increasing the retention limit for directed shark limited access permit holders from 45 to 55 LCS other than sandbar sharks per vessel per trip in the Gulf of Mexico region. In the eastern Gulf of Mexico sub-region, this applies to any shark in the aggregated LCS, hammerhead, or blacktip management groups. In the western Gulf of Mexico sub-region, because aggregated LCS and hammerhead management groups are closed, this increase only applies to the blacktip management group. This retention limit adjustment does not apply to directed shark limited access permit holders if the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and “no sale” provisions apply (§ 635.22(a) and (c)); or if the vessel possesses a valid shark research permit under § 635.32 and a NMFS-approved observer is onboard, in which case the restrictions noted on the shark research permit apply.

All other retention limits in the Gulf of Mexico region remain unchanged. This retention limit will remain at 55 LCS other than sandbar sharks per vessel per trip for the remainder of 2021, or until NMFS announces another adjustment to the retention limit or a fishery closure via a notification in the **Federal Register**, if warranted.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 635, which was issued pursuant to section 304(c), and is exempt from review under Executive Order 12866.

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

Based on recent data, NMFS has determined that landings have been low (45 percent of the 85.5-mt dw quota for aggregated LCS and 42 percent of the 13.4-mt dw quota for the hammerhead shark management group in the eastern Gulf of Mexico sub-region; 23 percent of the 37.7-mt dw quota for the eastern Gulf of Mexico sub-region blacktip and 61-percent of the 347.2 mt dw quota for the western Gulf of Mexico sub-region blacktip). Delaying this action for prior notice and public comment would unnecessarily limit opportunities to harvest available aggregated LCS management group, hammerhead shark management group, and blacktip shark quotas, which may have negative social and economic impacts for U.S. fishermen. This action does not raise conservation and management concerns. Adjusting retention limits does not affect the overall aggregated LCS management group, hammerhead shark management group, and blacktip shark quotas, and available data show the adjustment would have a minimal risk of exceeding the quotas set for the aggregated LCS and hammerhead shark management groups in the eastern Gulf of Mexico sub-region, and blacktip sharks in the eastern and western Gulf of Mexico sub-regions in the December 1, 2020 final rule (85 FR 77007). NMFS notes that the public had an opportunity to comment on the underlying rulemakings that established the quota and retention limit adjustment criteria. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

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

Dated: August 20, 2021.

Kelly Denit,

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

[FR Doc. 2021–18289 Filed 8–24–21; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 86, No. 162

Wednesday, August 25, 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.

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1282

RIN 2590–AB12

2022–2024 Enterprise Housing Goals

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: The Federal Housing Finance Agency (FHFA) is issuing a proposed rule with request for comments on the housing goals for Fannie Mae and Freddie Mac (the Enterprises) for 2022 through 2024. The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (the Safety and Soundness Act) requires FHFA to establish annual housing goals for mortgages purchased by the Enterprises. The housing goals include separate categories for single-family and multifamily mortgages on housing that is affordable to low-income and very low-income families, among other categories. The existing housing goals for the Enterprises include benchmark levels through the end of 2021. This proposed rule would establish new benchmark levels for the housing goals and subgoals for 2022 through 2024. The proposed rule would also replace the low-income areas subgoal with separate area-based subgoals targeting the individual components of the low-income areas subgoal (minority census tracts and low-income census tracts). Finally, the proposed rule would make several technical changes to definitions and other provisions to conform the regulation to existing practice.

DATES: FHFA will accept written comments on the proposed rule on or before October 25, 2021.

ADDRESSES: You may submit your comments on the proposed rule, identified by regulatory information number (RIN) 2590–AB12, by any one of the following methods:

- *Agency Website:* www.fhfa.gov/open-for-comment-or-input.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at RegComments@fhfa.gov to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB12.

- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB12, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB12, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks.

FOR FURTHER INFORMATION CONTACT: Ted Wartell, Associate Director, Housing & Community Investment, Division of Housing Mission and Goals, (202) 649–3157, Ted.Wartell@fhfa.gov; Padmasini Raman, Supervisory Policy Analyst, Housing & Community Investment, Division of Housing Mission and Goals, (202) 649–3633, Padmasini.Raman@fhfa.gov; Kevin Sheehan, Associate General Counsel, Office of General Counsel, (202) 649–3086, Kevin.Sheehan@fhfa.gov; or Marshall Adam Pecsek, Assistant General Counsel, (202) 649–3380, Marshall.Pecsek@fhfa.gov. These are not toll-free numbers. The mailing address is: Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. The telephone number for the Telecommunications Device for the Deaf is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of the proposed rule and will take all comments germane to the proposed rule into consideration before issuing a final rule. Copies of all such comments will

be posted without change, including any personal information you provide such as your name, address, email address, and telephone number, on FHFA's public website at <http://www.fhfa.gov>. In addition, copies of all such comments received will be available for examination by the public through the electronic rulemaking docket for this proposed rule also located on the FHFA website.

Commenters are encouraged to review and comment on all aspects of the proposed rule, including the proposed single-family housing goals and subgoals benchmark levels, the proposed multifamily housing goals benchmark levels, and the other proposed changes to the regulation.

II. Background

A. Statutory and Regulatory Background for the Existing Housing Goals

The Safety and Soundness Act requires FHFA to establish several annual housing goals for both single-family and multifamily mortgages purchased by the Enterprises.¹ The annual housing goals are one measure of the extent to which the Enterprises are meeting their public purposes, which include “an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return.”²

Since 2010, FHFA has established annual housing goals for Enterprise purchases of single-family and multifamily mortgages consistent with the requirements of the Safety and Soundness Act. The structure of the housing goals and the rules for determining how mortgage purchases are counted or not counted are defined in the housing goals regulation.³ The most recent rule established benchmark levels for the housing goals for 2021.⁴

¹ See 12 U.S.C. 4561(a).

² See 12 U.S.C. 4501(7).

³ See 12 CFR part 1282.

⁴ See 85 FR 82881 (Dec. 21, 2020). Prior to the rule establishing housing goals for 2021, the most recent rule establishing Enterprise housing goals applied to years 2018 through 2020. See 83 FR 5878 (Feb. 12, 2018). The 2020 final rule extended the housing goals benchmark levels applicable to 2018–2020 through 2021 only, a departure from historical FHFA practice of establishing goals at three-year intervals. As stated in the preamble to the 2020 final rule, this choice was motivated by the unique

This proposed rule would establish benchmark levels for 2022–2024.

Single-family goals. The single-family goals defined under the Safety and Soundness Act include separate categories for home purchase mortgages for low-income families, very low-income families, and families that reside in low-income areas.⁵ The Safety and Soundness Act defines “low-income area”⁶ to include: (1) Families in low-income census tracts, defined as census tracts with median income less than or equal to 80 percent of area median income (AMI);⁷ (2) families with incomes less than or equal to AMI who reside in minority census tracts (defined as census tracts with a minority population of at least 30 percent and a tract median income of less than 100 percent of AMI);⁸ and (3) families with incomes less than or equal to 100 percent of AMI who reside in designated disaster areas.⁹ The Enterprise housing goals regulation also includes a subgoal, within the low-income areas goal, that is limited to families in low-income census tracts and moderate-income families in minority census tracts.¹⁰ FHFA is proposing a change to the structure of the low-income areas subgoal, as further discussed in Section III.A. below. Performance on the single-family home purchase goals is measured as the percentage of the total home purchase mortgages purchased by an Enterprise each year that qualify for each goal or subgoal. There is also a separate goal for refinancing mortgages for low-income families, and performance on the refinancing goal is determined in a similar way.

Under the Safety and Soundness Act, the single-family housing goals are limited to mortgages on owner-occupied housing with one to four units total. The single-family goals cover conventional, conforming mortgages, defined as mortgages that are not insured or guaranteed by the Federal Housing Administration or another government agency and with principal balances that

do not exceed the conforming loan limits for Enterprise mortgages.

Two-part evaluation approach. The performance of the Enterprises on the housing goals is evaluated using a two-part approach, comparing the goal-qualifying share of the Enterprise’s mortgage purchases to two separate measures: A benchmark level and a market level. In order to meet a single-family housing goal, the percentage of mortgage purchases by an Enterprise that meet each goal must equal or exceed either the benchmark level or the market level for that year. The benchmark level is set prospectively by rulemaking based on various factors set forth in the Safety and Soundness Act.¹¹ The market level is determined retrospectively for each year, based on the actual goal-qualifying share of the overall market as measured by the Home Mortgage Disclosure Act (HMDA) data for that year. The overall market that FHFA uses for setting both the prospective benchmark level and the retrospective market level consists of all single-family owner-occupied conventional conforming mortgages that would be eligible for purchase by either Enterprise. It includes loans purchased by the Enterprises as well as comparable loans held in a lender’s portfolio. It also includes any loans that are part of a private label security (PLS), although very few such securities have been issued for conventional conforming mortgages since 2008.

While both the benchmark level and the retrospective market level are designed to measure the current year’s mortgage originations, the performance of the Enterprises on the housing goals includes all Enterprise purchases in that year, regardless of the year in which the loan was originated. This includes providing housing goals credit when the Enterprises acquire qualified seasoned loans. (Seasoned loans are loans that were originated in prior years and acquired by the Enterprise in the current year.)

Multifamily goals. The multifamily goals defined under the Safety and Soundness Act include categories for mortgages on multifamily properties (properties with five or more units) with rental units affordable to low-income families and mortgages on multifamily properties with rental units affordable to very low-income families. The Enterprise housing goals regulation also includes a small multifamily low-income subgoal for properties with 5–50 units. The multifamily housing goals include all Enterprise multifamily mortgage purchases, regardless of the

purpose of the loan. The multifamily goals evaluate the performance of the Enterprises based on numeric targets, not percentages, for the number of affordable units in properties backed by mortgages purchased by an Enterprise. The Enterprise housing goals regulation does not include a retrospective market level measure for the multifamily goals, due in part to a lack of comprehensive data about the multifamily market. As a result, FHFA currently measures Enterprise multifamily goals performance against the benchmark levels only.

The Safety and Soundness Act requires that affordability for rental units under the multifamily goals be determined based on rents that “[do] not exceed 30 percent of the maximum income level of such income category, with appropriate adjustments for unit size as measured by the number of bedrooms.”¹² The Enterprise housing goals regulation considers the net rent paid by the renter and, therefore, nets out any subsidy payments that the renter may receive, including housing assistance payments.

B. Adjusting the Housing Goals

If, after publication of the final rule establishing the housing goals for 2022–2024, FHFA determines that any of the single-family or multifamily housing goals should be adjusted in light of market conditions, to ensure the safety and soundness of the Enterprises, or for any other reason, FHFA will take any steps that are necessary and appropriate to adjust that goal such as reducing the benchmark level through the processes in the existing regulation. FHFA may take other actions consistent with the Safety and Soundness Act and the Enterprise housing goals regulation based on new information or developments that occur after publication of the final rule.

For example, under the Safety and Soundness Act and the Enterprise housing goals regulation, FHFA may reduce the benchmark levels in response to an Enterprise petition for reduction for any of the single-family or multifamily housing goals in a particular year based on a determination by FHFA that: (1) Market and economic conditions or the financial condition of the Enterprise require a reduction; or (2)

market conditions created by the COVID–19 pandemic. 85 FR at 82881 (“Due to the severe nature of the COVID–19 pandemic and associated economic uncertainty, FHFA is establishing benchmark levels for the Enterprise single-family and multifamily housing goals for calendar year 2021 only.”)

⁵ 12 U.S.C. 4562(a)(1).

⁶ 12 U.S.C. 4502(28).

⁷ 12 U.S.C. 4502(28); 12 CFR 1282.1 (par. (i) of definition of “families in low-income areas”).

⁸ 12 U.S.C. 4502(29); 12 CFR 1281.1 (par. (ii) of definition of “families in low-income areas” and definition of “minority census tract”).

⁹ 12 U.S.C. 4502(28); 12 CFR 1281.1 (definition of “designated disaster area” and par. (iii) of definition of “families in low-income areas”).

¹⁰ 12 CFR 1282.12(f).

¹¹ See 12 U.S.C. 4562(e).

¹² See 12 U.S.C. 4563(c). This affordability definition is sometimes referred to as the “Brooke Amendment,” which states that to be affordable at the 80 percent of AMI level, the rents must not exceed 30 percent of the renter’s income which must not exceed 80 percent of AMI. See https://www.huduser.gov/portal/pdredge/pdr_edge_featd_article_092214.html for a description of the Brooke Amendment and background on the notion of affordability embedded in the housing goals.

efforts to meet the goal or subgoal would result in the constraint of liquidity, over-investment in certain market segments, or other consequences contrary to the intent of the Safety and Soundness Act or the purposes of the Enterprises' charter acts.¹³

The Safety and Soundness Act and the Enterprise housing goals regulation also take into account the possibility that achievement of a particular housing goal may or may not have been feasible for an Enterprise to achieve. If FHFA determines that a housing goal was not feasible for an Enterprise to achieve, then the statute and regulation provide

for no further enforcement of that housing goal for that year.¹⁴

If FHFA determines that an Enterprise failed to meet a housing goal and that achievement of the housing goal was feasible, then the statute and regulation provide FHFA with discretionary authority to require the Enterprise to submit a housing plan describing the specific actions the Enterprise will take to improve its housing goals performance.

C. Housing Goals Under Conservatorship

On September 6, 2008, FHFA placed each Enterprise into conservatorship. Although the Enterprises remain in

conservatorship at this time, they continue to have the mission of supporting a stable and liquid national market for residential mortgage financing. FHFA has continued to establish annual housing goals for the Enterprises and to assess their performance under the housing goals each year during conservatorship.

III. Summary of Proposed Rule

A. Benchmark Levels for the Single-Family Housing Goals

This proposed rule would establish the benchmark levels for the existing single-family housing goals for 2022–2024 as follows:

Goal	Criteria	Current benchmark level for 2021 (percent)	Proposed benchmark level for 2022–2024 (percent)
Low-Income Home Purchase Goal	Home purchase mortgages on single-family, owner-occupied properties, to borrowers with incomes no greater than 80 of area median income (AMI).	24	28
Very Low-Income Home Purchase Goal	Home purchase mortgages on single-family, owner-occupied properties, to borrowers with incomes no greater than 50 of AMI.	6	7
Low-Income Refinancing Goal	Refinancing mortgages on single-family, owner-occupied properties, to borrowers with incomes no greater than 80 of AMI.	21	26

The proposed rule would replace the existing low-income areas subgoal with two new area-based subgoals and corresponding benchmark levels. Implementation of the two new subgoals would modify the methodology for measuring the Enterprises' performance in these areas. The first of the proposed subgoals would establish a benchmark

level for Enterprise purchases of mortgage loans on properties in minority census tracts, made to borrowers with incomes no greater than 100 percent of AMI. The second of the proposed subgoals would establish a benchmark level for Enterprise purchases of (i) mortgage loans on properties in low-income census tracts

that are not minority census tracts, as well as (ii) mortgage loans on properties in low-income census tracts that are minority census tracts, made to families with incomes greater than 100 percent of AMI. The proposed rule would establish the new subgoal benchmark levels for 2022–2024 as follows:

Subgoal	Criteria	Proposed benchmark level for 2022–2024 (percent)
Minority Census Tracts Subgoal	Home purchase mortgages on single-family, owner-occupied properties to borrowers with income no greater than 100 percent of AMI in minority census tracts. ¹	10
Low-Income Census Tracts Subgoal	(i) Home purchase mortgages on single-family, owner-occupied properties to borrowers (regardless of income) in low-income census tracts ² that are not minority census tracts, and (ii) home purchase mortgages on single-family, owner-occupied properties to borrowers with incomes greater than 100 percent of AMI in low-income census tracts that are also minority census tracts.	4

¹ Census tracts that have a minority population of at least 30 percent and a median income of less than 100 percent of AMI.

² Census tracts where the median income is no greater than 80 percent of AMI.

In addition, FHFA will continue to establish by notice to the Enterprises an annual benchmark level for the low-income areas housing goal that takes into account loans from disaster areas. The proposed rule would make one

clarifying change to the definition of “designated disaster area,” as described below.

B. Proposed Benchmark Levels for the Multifamily Housing Goals

The proposed rule would establish the benchmark levels for the

¹³ See 12 CFR 1282.14(d).

¹⁴ See 12 CFR 1282.21(a); 12 U.S.C. 4566(b).

multifamily goal and subgoals for 2022–2024 as follows:

Goal	Criteria	Current benchmark level for 2021 (units)	Proposed benchmark level for 2022–2024 (units)
Low-Income Goal	affordable to families with incomes no greater than 80 percent of AMI in multifamily rental properties with mortgages purchased by an Enterprise.	315,000	415,000
Very Low-Income Subgoal	affordable to families with incomes no greater than 50 percent of AMI in multifamily rental properties with mortgages purchased by an Enterprise.	60,000	88,000
Small Multifamily Low-Income Subgoal	affordable to families with incomes no greater than 80 percent of AMI in small multifamily rental properties (5 to 50) with mortgages purchased by an Enterprise.	10,000	23,000

C. Other Proposed Changes

The proposed rule would make minor technical changes to some regulatory definitions and counting rules. These changes would be non-substantive changes intended to conform the regulation to existing FHFA practices in measuring the performance of the Enterprises under the housing goals.

D. Summary of Responses to the ANPR and Public Listening Session

In December 2020, FHFA published an Advance Notice of Proposed Rulemaking (ANPR) requesting public comment on several questions related to potential changes to the Enterprise housing goals regulation.¹⁵ FHFA invited comments in the ANPR on four specific questions identified below, as well as on any other issues that commenters thought should be addressed as part of the rulemaking to establish the housing goals benchmark levels for 2022 and beyond.

FHFA also held a public listening session in March 2021 to solicit additional input on the Enterprise housing goals regulation. FHFA received 16 letters in response to the ANPR and heard from 12 external speakers during the listening session. The comments provided through the letters and by the speakers addressed a range of topics related to the Enterprise housing goals and access to mortgages for low-income borrowers. FHFA appreciates the time and effort that commenters put into responses and has incorporated elements of the feedback received into the proposed rule. Some of the topics raised in the comments require further research or analysis, and FHFA may consider these issues in future rulemaking cycles. A summary of the comments received is included below. All comments received, as well as the transcript of the public listening

session, are available at FHFA's website.¹⁶

Question 1: Are there categories of loans that should be excluded from receiving housing goals credit under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (Safety and Soundness Act) provisions on “unacceptable business and lending practices”?

Numerous commenters opposed excluding loans from receiving housing goals credit because of certain credit or underwriting features like loan-to-value or debt-to-income ratios. Several commenters stressed their belief that loans that meet safety and soundness standards and are eligible for purchase by the Enterprises should be eligible for housing goals credit. In addition, many of the commenters argued that loans that are eligible for Qualified Mortgage (QM) status should also be eligible for housing goals credit. Two commenters stressed that FHFA should not exclude particular categories of loans from receiving housing goals credit unless the performance of the loan products is unsustainable. Other commenters supported excluding certain loans from receiving housing goals credit. For example, one commenter argued that mortgages with loan-level pricing adjustments should not receive credit. Another commenter recommended that FHFA require the Enterprises to use a historical mortgage default rate matrix to limit certain types of acquisitions.

Several commenters expressed concerns about the January 2021 amendments to the Senior Preferred Stock Purchase Agreements between the Enterprises and the U.S. Department of the Treasury (PSPAs), which place new limits on risk-layering in loans eligible for purchase by the Enterprises. The commenters stressed the potential

negative impact the amendments to the PSPAs could have on communities and borrowers of color and encouraged FHFA to evaluate the effect of the new restrictions on the housing goals. The commenters also requested that FHFA provide more data on the impact of the housing goals by income and race or ethnicity in light of the changes to the PSPAs. One commenter requested that FHFA conduct annual evaluations of how its policies, including the PSPAs, impact the ability of the Enterprises to meet the housing goals and satisfy their charter missions. Several commenters raised concerns about the Enterprises' ability to meet the housing goals in light of FHFA's recently adopted capital regulation, which they believe will increase mortgage costs and, in turn, decrease access to mortgage credit for lower-income or lower-wealth borrowers and borrowers of color.

Question 2: Are there ways to determine whether the low-income areas home purchase subgoal has resulted in the displacement of residents from certain communities, or to measure the extent of any such displacement? Should FHFA consider modifying the low-income areas home purchase subgoal to address such concerns? If so, how?

FHFA provided an analysis of whether the low-income areas home purchase subgoal has resulted in the displacement of residents from certain communities in the ANPR based on HMDA data. The data showed that both low-income areas and high-minority areas have increasing shares of borrowers with incomes at or above 100 percent of AMI.¹⁷ The data also showed that the share of loans made to borrowers with incomes greater than 100 percent of AMI and residing in low-income census tracts increased from

¹⁶ See <https://www.fhfa.gov/Videos/Pages/FHFA-Public-Listening-Session-Enterprise-Housing-Goals-ANPR.aspx>.

¹⁷ Note that loans to borrowers with incomes over 100 percent of AMI do not qualify for the minority areas component of the subgoal.

¹⁵ See 85 FR 82965 (Dec. 21, 2020).

40.7 percent in 2010 to 42.8 percent in 2016, but declined to a low of 37 percent in 2019. Numerous commenters broadly agreed with the description of trends provided in the ANPR and encouraged FHFA to continue to provide data on this issue. A few commenters requested that FHFA provide additional data pertaining to the race and ethnicity of borrowers for loans that meet this subgoal. Two commenters recommended that FHFA analyze Census Bureau data over the next five years in an effort to determine if displacement is occurring in certain communities. Another commenter recommended that FHFA, in coordination with other regulators, monitor home sales prices, resident incomes, and other data to determine the impact of the subgoal.

Although one commenter recommended leaving the subgoal in its current form, citing its benefits to socioeconomic diversity, several commenters expressed concern about the Enterprises receiving housing goals credit for loans to borrowers who meet no standard other than living in a low-income area. A number of commenters recommended that FHFA continue to monitor and analyze trends regarding whether the low-income areas home purchase subgoal has resulted in the displacement of residents. Other commenters suggested revising the subgoal to ensure that FHFA allows housing goals credit only for loans to borrowers at or below 80 percent of AMI. One commenter explicitly stated that the housing goals targets should be based only on income, not geography. Another commenter recommended allowing only a certain percentage of loans above 80 percent of AMI to qualify for the subgoal and encouraged FHFA to analyze the potential impact of different caps (*i.e.*, 100 or 125 percent of AMI).

Question 3: Should FHFA revise the low-income areas home purchase subgoal to consider loans on properties located in Opportunity Zones, and if so, how should such loans be treated?

Some commenters supported the idea of the Enterprises receiving housing goals credit for Opportunity Zone loans for low-income borrowers. For example, one commenter favored providing housing goals credit for loans in Opportunity Zones as a way to help encourage affordable housing investment but did not support giving the Enterprises extra or double credit for loans in Opportunity Zones. Other commenters opposed allowing housing goals credit for Opportunity Zone loans due to the relative newness of the program. One of these commenters encouraged FHFA to conduct more

analysis on the types of housing developments found in Opportunity Zones before offering housing goals credit. Another commenter expressed concern about the ultimate beneficiaries of Opportunity Zones, as well as skepticism that low- or moderate-income households or communities would benefit from the program.

Question 4: Is there evidence that the Enterprise housing goals have helped expand low-income homeownership in the marketplace?

FHFA received a number of comments emphasizing the value of the housing goals over time and the importance of maintaining Enterprise focus on these segments of the market. Some commenters stated that there has been a positive impact on low-income homeownership and the housing goals have expanded access to low-income households. Other commenters noted that the housing goals are foundational to the mission of the Enterprises, as laid out in the statute and their charters. Another commenter argued for the importance of the housing goals in incentivizing lending to low-income borrowers.

One commenter stated that the housing goals have served as a catalyst for expanding banks' abilities to serve low- and moderate-income borrowers. Another commenter stated that the housing goals have contributed to increases in Latino home ownership. The commenter also described the benefits of the Enterprises' efforts to standardize eligibility criteria and underwriting factors, enabling more low-income households to obtain credit. The commenter also urged FHFA to monitor mortgage servicing standards and, if necessary, provide notice of any mortgage relief or loss mitigation options to ensure that servicers of Enterprise-backed loans proactively help homeowners who are struggling with payments.

Several commenters encouraged FHFA to establish higher or more rigorous housing goals. One of the commenters argued that the Enterprises could better serve the manufactured housing market segment through purchasing chattel home loans and homes settled as real estate. Another commenter encouraged FHFA to support manufactured home consumer lending through the Enterprise housing goals and the Duty to Serve program.

A number of commenters encouraged FHFA to review its policies to ensure there are no unnecessary barriers to meeting the housing goals and serving low-income households. One commenter specifically focused on the price of guarantee fees because pricing

structures can impact whether a creditworthy borrower can afford a mortgage. The commenter highlighted the impact that guarantee fees have with respect to pooling risk, eliminating excessive risk-based pricing, and encouraging greater access to sustainable homeownership.

Although the majority of the commenters expressed support for the housing goals, one commenter argued that they have not been successful and that the rates of homeownership for low-income households have declined over the last 30 years. The commenter recommended that FHFA address risk-layering (*i.e.*, mortgages with multiple characteristics associated with higher risk) by limiting Enterprise acquisitions of mortgages for low-income borrowers to mortgages with a projected mortgage default rate of less than 14 percent and by encouraging 20-year instead of 30-year mortgages. Another commenter expressed the belief that the housing goals have had a minimal effect on low-income homeownership. The commenter argued that the mortgages captured by the housing goals are not excessively risky and would have been made in the absence of the housing goals. The commenter also argued that there is no evidence that the housing goals have created a lower-priced or more affordable mortgage.

Other Comments

There were additional topics that commenters raised in responses to the ANPR. For example, a number of commenters claimed that their responses to certain questions—specifically, those concerning whether there are categories of loans that should be excluded from the housing goals, the impact of the low-income areas home purchase subgoal, and the impact of the Enterprise housing goals over time—were affected by insufficient access to data. These commenters asserted that they would have been able to better respond to the questions in the ANPR if they had access to additional and more comprehensive data about the composition of housing goals loans and the historical performance of those loans. One commenter suggested supplementing existing reports like the Annual Housing Report with data on the risk characteristics and the performance of loans that receive housing goals credit.

Several commenters focused on the racial homeownership gap between White households and Black or Latino households and emphasized the importance of homeownership to family wealth. The commenters cited the persistently lower rates of

homeownership for Black and Latino households and requested that FHFA try to address the gap through the housing goals. One commenter encouraged FHFA to specifically consider the impact that any changes or revisions to the housing goals would have on borrowers of color. Another commenter proposed the creation of a new housing goal to focus on the racial homeownership gap. A number of commenters also noted the disproportionate impact the COVID-19 pandemic has had on low-income households and people of color.

Several commenters expressed concern about whether low-income borrowers have adequate access to affordable refinancing options, particularly in light of the recent low interest rate environment. Two of the commenters suggested that the Enterprises create a streamlined refinance program in order to ensure that rate/term refinances are more available to lower-income households.

FHFA appreciates the thoughtful and thorough responses received on the ANPR and has analyzed the suggestions embedded in the comments. FHFA has taken these comments into account where relevant and possible in formulating the current proposed rule. Other comments or recommendations will require further analysis and the issues raised may be addressed in future rulemakings.

With respect to requests for additional data, FHFA understands the value of data in evaluating and assessing the performance of the Enterprises in achieving the housing goals and is exploring additional ways to provide data to the public. FHFA intends to provide additional data on Enterprise loan purchases on the FHFA website. In determining which data can be provided, FHFA must consider that some data from the Enterprises are confidential or proprietary and may not be disclosed.

In the rulemaking establishing the housing goals for 2021, FHFA did not publish the single-family model paper that it usually publishes for each housing goals rulemaking. FHFA received comments in response to the proposed 2021 housing goals rule and the ANPR that encouraged FHFA to publish the single-family model papers in future rulemakings. As with most previous housing goals rulemakings, FHFA has published the single-family model paper on its public website in conjunction with this housing goals proposed rule.¹⁸

In response to comments about the importance of access to refinancing options for lower income borrowers, FHFA notes that both Enterprises introduced new refinancing options in April 2021. Eligible borrowers must have incomes at or below 80 percent of AMI, and the lender must provide the borrower a savings of at least \$50 per month and at least a 50-basis point reduction in the borrower's interest rate. FHFA estimates that borrowers who take advantage of this refinancing option could save an average of \$1,200 to \$3,000 per year.¹⁹ In addition, in July 2021, FHFA announced the elimination of the Adverse Market Refinance Fee, to help families reduce their housing costs.²⁰

In response to comments about the racial homeownership gap, FHFA has taken a number of actions. For example, FHFA held a listening session on June 29, 2021 to obtain public input on the topic of closing the gap in sustainable homeownership. FHFA is also publishing on its website additional data on the race and ethnicity of loans that are eligible and qualified for housing goals credit. The additional data should assist those interested in analyzing the current housing goals performance of the Enterprises. Finally, as noted earlier and described in greater detail below, FHFA is proposing the creation of new area-based subgoals that separately measure the Enterprises' purchases of mortgages in minority census tracts and low-income census tracts. FHFA is specifically requesting public comment on the proposed area-based subgoals, as well as all other aspects of this proposed rule.

IV. Single-Family Housing Goals

A. Factors Considered in Setting the Proposed Single-Family Housing Goal Levels

The Safety and Soundness Act requires FHFA to consider the following seven factors in setting the single-family housing goals:

1. National housing needs;
2. Economic, housing, and demographic conditions, including expected market developments;

Affordable Mortgage Market: 2022–2024 Enterprise Single-Family Housing Goals” available at https://www.fhfa.gov/PolicyProgramsResearch/Research/PaperDocuments/Market-Estimates_2022-2024.pdf.

¹⁹ See <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-New-Refinance-Option-for-Low-Income-Families-with-Enterprise-Backed-Mortgages.aspx>.

²⁰ See <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Eliminates-Adverse-Market-Refinance-Fee.aspx>.

3. The performance and effort of the Enterprises toward achieving the housing goals in previous years;

4. The ability of the Enterprises to lead the industry in making mortgage credit available;

5. Such other reliable mortgage data as may be available;

6. The size of the purchase money conventional mortgage market, or refinance conventional mortgage market, as applicable, serving each of the types of families described, relative to the size of the overall purchase money mortgage market or the overall refinance mortgage market, respectively; and

7. The need to maintain the sound financial condition of the Enterprises.²¹ FHFA has considered each of these seven statutory factors in setting the proposed benchmark levels for each of the single-family housing goals and subgoals.

In setting the proposed benchmark levels for the single-family housing goals, FHFA typically relies on statistical market models to evaluate these statutory factors and generate a point forecast for each goal as well as a confidence interval for the point forecast. FHFA then considers other statutory factors, as well as other relevant policy issues, to select a specific point forecast within the confidence interval as the proposed benchmark level.

In proposing the benchmark levels for the single-family housing goals for 2022–2024, FHFA considered the statutory factors, including the current economic conditions, national housing needs, recent market developments, and the past performance of the Enterprises on the housing goals.

Market forecast models. The purpose of FHFA's market forecast models is to forecast the market share of the goal-qualifying mortgage originations in the market for the 2022–2024 period. The models are intended to generate reliable forecasts rather than to test various economic hypotheses about the housing market or to explain the relationship between variables. Therefore, following standard practice among forecasters and economists at other federal agencies, FHFA estimates a reduced-form equation for each of the housing goals and fits an Autoregressive Integrated Moving Average (or ARIMA) model to each goal share. The models look at the statistical relationship between (a) the historical market share for each single-family housing goal or subgoal, as calculated from monthly HMDA data, and (b) the historical values for various

¹⁸ Details on FHFA's single-family market models are available in the technical report “The Size of the

²¹ See 12 U.S.C. 4562(e)(2)(B).

factors that may influence the market shares, such as interest rates, inflation, house prices, home sales, the unemployment rate, and other factors. The models then project the future value of the affordable market share using forecast values of the model inputs. Separate models are developed for each of the single-family housing goals and subgoals.

FHFA has employed similar models in past rulemaking cycles to generate market forecasts. The models are developed using monthly series generated from HMDA and other data sources, and the resulting monthly forecasts are then averaged into an annual forecast for each of the three years in the goal period. The models rely on 16 years of HMDA data, from 2004 to 2019, the latest year for which public HMDA data was available at the time of model construction. FHFA will be updating the models with HMDA data for 2020 while developing the final rule. Additional discussion of the market forecast models can be found in a research paper, available at <http://www.fhfa.gov/PolicyProgramsResearch/Research/>.²²

Current market outlook. There are many factors that impact the affordable housing market as a whole, and changes to any one of them could significantly impact the ability of the Enterprises to meet the goals. In developing the market models, FHFA used Moody's forecasts as the source for macroeconomic variables where available.²³ In cases where Moody's forecasts were not available (for example, the share of government-insured/guaranteed home purchases and the share of government-insured/guaranteed refinances), FHFA generated and tested its own forecasts as in past rulemakings.²⁴ Elements that impact the models and the determination of benchmark levels are discussed below.

Interest rates are very important determinants of the trajectory of the mortgage market. In an effort to continue its support of the U.S. economy and promote maximum employment and price stability, the Federal Reserve reiterated at its April 2021 meeting its commitment to seeking

to achieve maximum employment and inflation at 2 percent in the long run by maintaining its target for the federal funds rate at between 0 percent and 0.25 percent until its goals are achieved.²⁵ The target was first lowered to this level in March 2020 to mitigate the effects of the COVID-19 pandemic.²⁶ Moody's July 2021 forecast assumes that this target is maintained until the third quarter of 2022, and then projects that mortgage interest rates—in particular the 30-year fixed rate, which is closely tied to the federal funds rate and the 10-year Treasury note yield—will rise gradually from the current historic low of 3.1 percent in 2020 to 4.3 percent by 2024.²⁷

Moody's July 2021 forecast projects that the unemployment rate will gradually fall from its 2020 peak to 4.0 percent in 2024. Moody's also forecasts a modest increase in per capita disposable nominal income growth—from \$53,081 in 2020 to \$59,365 in 2024. Furthermore, Moody's estimates that the inflation rate will be in the 2.2–2.4 percent range from 2022 through 2024.

The combination of low interest rates, high deferred demand, and low supply fueled by the pandemic pushed house prices up by 18.0 percent in May 2021 relative to May 2020, based on FHFA's purchase-only House Price Index (HPI).²⁸ Moody's July 2021 forecast of the same HPI index expects house prices to increase at the annual rates of 4.0, 3.7, and 1.5 percent in 2022, 2023, and 2024, respectively.

Taken together, the expected increase in mortgage interest rates and house prices likely will impact the ability of low- and very low-income households to purchase homes. Housing affordability, as measured by Moody's forecast of the National Association of Realtors' (NAR) Housing Affordability Index (HAI), is projected to decline from an index value of 166.3 in 2020 to 135.4 in 2024. Lower values of the HAI imply that affordability has worsened.²⁹ The

third leg of the housing affordability stool is the supply of affordable housing, but this had not kept pace with the growth of the demographic demand even before the advent of the COVID-19 pandemic.

In many ways, 2020 was an unusual year as it saw record volumes of both home purchase and home refinance loans. Low interest rates coupled with rising house prices created an incentive for many homeowners to refinance, resulting in a surge in refinance activity in 2020. The refinance share of overall mortgage originations since 2001 increased from a low of 28 percent in 2018 to 61 percent in 2020. Moody's forecasts this share to sharply decline to 42 percent in 2021, and continue to decline to 39 percent in 2022, and then to 31 percent and 24 percent in 2023 and 2024, respectively.

The economic forecast from Moody's described above is largely consistent with that provided by other forecasters. According to the Bureau of Economic Analysis (BEA), real Gross Domestic Product (GDP) grew by 33.4 percent in the third quarter of 2020, following two quarters of losses. GDP growth was strong in the subsequent quarters, including the second quarter of 2021 when it grew by 6.5 percent according to the advance estimate released by the BEA.³⁰ According to the most recent estimate published by the Congressional Budget Office (CBO), GDP is projected to grow by 7.4 percent in 2021, after which GDP growth is projected to decline to 3.1 percent in 2022, and then remain under 2 percent through 2031.³¹

According to the Bureau of Labor Statistics (BLS), the unemployment rate peaked at 14.8 percent in April 2020, and fell to 5.9 percent in June 2021.³² CBO projects this number to be 4.6 percent in the fourth quarter of 2021 and that employment will surpass its pre-pandemic level in mid-2022.

FHFA continues to monitor how these changes in the housing market and recent legislation may impact various segments of the market, including those targeted by the housing goals.

of 20 percent of the home price and a monthly payment that does not exceed 25 percent of the median family income. An index value of 100 means that a family earning the median family income has exactly enough income to qualify for a mortgage on a median-priced home. An index value above 100 signifies that a family earning the median family income has more than enough income to qualify for a mortgage on a median-priced home. A decrease in the index value over time indicates that housing is becoming less affordable.

³⁰ See <https://www.bea.gov/news/2021/gross-domestic-product-second-quarter-2021-advance-estimate-and-annual-update>.

³¹ See <https://www.cbo.gov/publication/57339>.

³² Accessed on 7/29/2021 at <https://www.bls.gov/news.release/empst.nr0.htm>.

²² Details on FHFA's single-family market models will be available in the technical report "The Size of the Affordable Mortgage Market: 2022–2024 Enterprise Single-Family Housing Goals" available at https://www.fhfa.gov/PolicyProgramsResearch/Research/PaperDocuments/Market-Estimates_2022-2024.pdf.

²³ The macroeconomic outlook described herein is based on Moody's forecasts as of July 2021.

²⁴ This refers to the mortgages insured or guaranteed by government agencies such as the Federal Housing Administration, Department of Veterans Affairs, and Rural Housing Service.

²⁵ See <https://www.federalreserve.gov/newsevents/pressreleases/monetary20210428a.htm>.

²⁶ See <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200315a.htm>.

²⁷ See Exhibit 1 in the technical report "The Size of the Affordable Mortgage Market: 2022–2024 Enterprise Single-Family Housing Goals" available at https://www.fhfa.gov/PolicyProgramsResearch/Research/PaperDocuments/Market-Estimates_2022-2024.pdf.

²⁸ See <https://www.fhfa.gov/AboutUs/Reports/Pages/US-House-Price-Index-July-2021.aspx>.

²⁹ NAR's HAI is a national index. It measures, nationally, whether an average family could qualify for a mortgage on a typical home. A typical home is defined as the national median-priced, existing single-family home as reported by NAR. An average family is defined as one earning the median family income. The calculation assumes a down payment

Post-model adjustments. While FHFA's models can address and forecast many of the statutory factors that can make affordability for single-family homeownership more challenging for low-income and very low-income households, including increasing interest rates and rising property values, some factors are not captured in the models. FHFA, therefore, considers additional factors when selecting the benchmark level within the model-generated confidence interval for each of the single-family housing goals. Some of these additional factors may affect a subset of the market rather than the market as a whole. These factors include the effectiveness of COVID-19 vaccination efforts and the path of the virus, as well as other factors that might contribute to an uneven economic

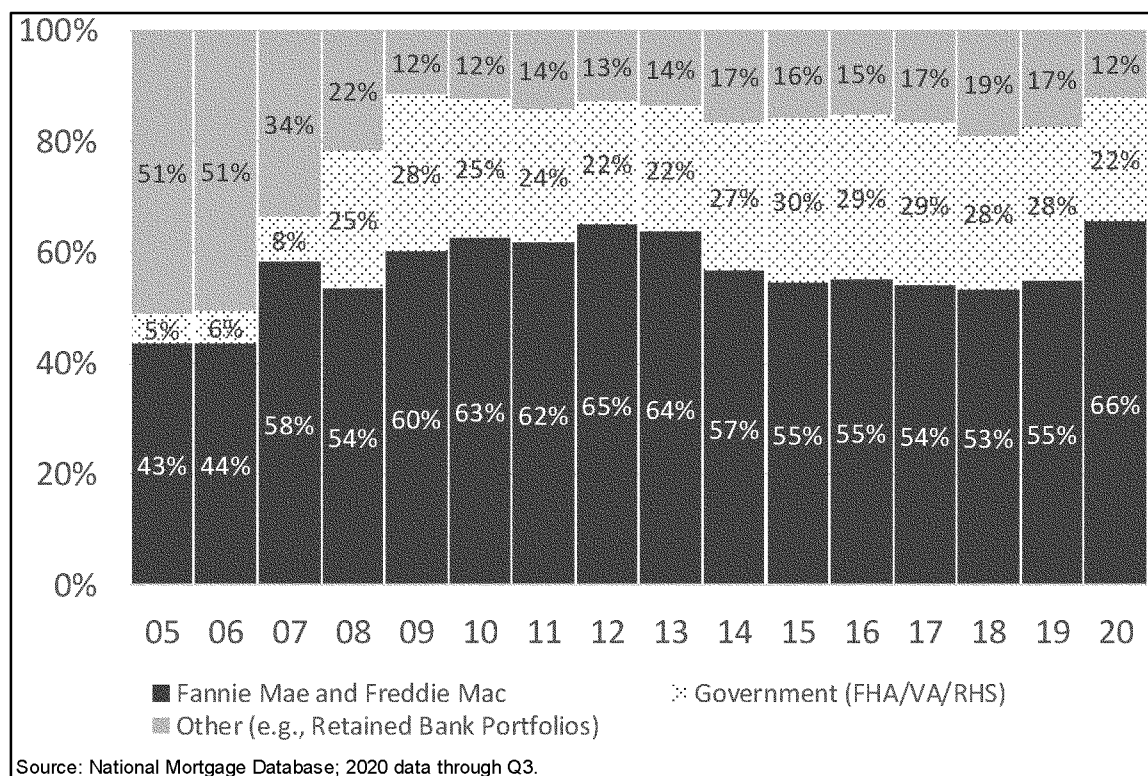
recovery, demographic trends, and the Enterprises' share of the mortgage market. Variability in these factors can also have a substantial impact on the ability of the Enterprises to meet the housing goals. Consequently, as discussed further below, FHFA will carefully monitor these factors and consider the potential impact of market shifts or larger trends on the ability of the Enterprises to achieve the housing goals.

Demographic trends. The impact that specific demographic changes, like the housing demand patterns of millennials or the growth of minority households, will have on the housing market is not included explicitly in the market forecast models. Millennials have made up the largest share of home purchase mortgage applications for the past five

years.³³ This generation's share of mortgage purchase applications rose about 2 to 4 percentage points a year from 33 percent in 2014 to 47 percent in 2019, but jumped dramatically in 2020 to 54 percent.³⁴

Enterprises' share of the mortgage market. The Enterprises' overall share of the mortgage market is subject to fluctuation. During the mortgage market bubble, the Enterprises' share of the market dropped to about 43 percent in 2005. That share rose to about 65 percent in 2012, but declined to about 55 percent in 2015. This share remained relatively stable until 2019, then jumped to 66 percent in 2020, as the Enterprises continued to acquire mortgages even as other private market participants stepped back.

Graph 1: Shares of the Conforming Mortgage Market



As shown in Graph 1, over the same time period, the total government share of the mortgage market (including the Federal Housing Administration, Department of Veterans Affairs, and Rural Housing Service) has generally been expanding, albeit with a recent contraction. In 2015, the total

government share accounted for about 30 percent of overall mortgage originations, considerably up from about 5 percent a decade earlier. That share was relatively stable until 2019, then declined to 22 percent in 2020.

Past Performance of the Enterprises

Table 1 provides the annual performance of both Enterprises on the single-family housing goals between 2010 and 2020. Throughout this proposed rule, Enterprise performance data for 2020 is preliminary. FHFA will

³³ See Pradhan, Archana April 2021, "Millennials Lead the Pack for Home Purchases," CoreLogic Blog accessed on 5/25/2021 at <https://www.corelogic.com/blog/2021/4/millennials-lead-the-pack-for-home-purchases.aspx>.

³⁴ *Id.* ("while half of the increase is consistent with the natural growth rate seen since 2014, the

additional half of the 2020 jump was likely driven by the pandemic. In other words, the increase was accelerated by record low mortgage interest rate [sic] and flexibility to work remotely.").

make final determinations on Enterprise performance later in 2021.

Table 1: Enterprise Single-Family Housing Goals Performance (2010-2020)

Low-Income Home Purchase Goal											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Actual Market	27.2	26.5	26.6	24.0	22.8	23.6	22.9	24.3	25.5	26.6	27.6
Benchmark	27.0	27.0	23.0	23.0	23.0	24.0	24.0	24.0	24.0	24.0	24.0
Fannie Mae Performance	25.1*	25.8*	25.6	23.8	23.5	23.5*	22.9	25.5	28.2	27.8	29.0
Freddie Mac Performance	27.8	23.3*	24.4	21.8*	21.0*	22.3*	23.8	23.2*	25.8	27.4	28.5
Very Low-Income Home Purchase Goal											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Actual Market	8.1	8.0	7.7	6.3	5.7	5.8	5.4	5.9	6.5	6.6	7.0
Benchmark	8.0	8.0	7.0	7.0	7.0	6.0	6.0	6.0	6.0	6.0	6.0
Fannie Mae Performance	7.2*	7.6*	7.3	6.0*	5.7	5.6*	5.2*	5.9	6.7	6.5	7.3
Freddie Mac Performance	8.4	6.6*	7.1	5.5*	4.9*	5.4*	5.7	5.7*	6.3	6.8	6.9
Low-Income Areas Home Purchase Goal											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Actual Market	24	22	23.2	22.1	22.1	19.8	19.7	21.5	22.6	22.9	22.4
Benchmark	24	24	20	21	18	19	17	18	18	19	18
Fannie Mae Performance	24.1	22.4	22.3	21.6	22.7	20.4	20.2	22.9	25.1	24.5	23.6
Freddie Mac Performance	23.8*	19.2*	20.6	20.0*	20.1	19	19.9	20.9	22.6	22.9	21.8
Low-Income Areas Home Purchase Subgoal											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Actual Market	12.1	11.4	13.6	14.2	15.0	15.2	15.9	17.1	18.0	18.1	17.6
Benchmark	13.0	13.0	11.0	11.0	11.0	14.0	14.0	14.0	14.0	14.0	14.0
Fannie Mae Performance	12.4	11.6	13.1	14.0	15.5	15.6	16.2	18.3	20.1	19.5	18.3
Freddie Mac Performance	10.8*	9.2*	11.4	12.3	13.6	14.5	15.6	16.4	17.3	18.0	17.1
Low-Income Refinance Goal											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Actual Market	20.2	21.5	22.3	24.3	25.0	22.5	19.8	25.4	30.7	24.0	21.0
Benchmark	21.0	21.0	20.0	20.0	20.0	21.0	21.0	21.0	21.0	21.0	21.0
Fannie Mae Performance	20.9	23.1	21.8	24.3	26.5	22.1	19.5*	24.8	31.2	23.8	21.2
Freddie Mac Performance	22.0	23.4	22.4	24.1	26.4	22.8	21.0	24.8	27.3	22.4	19.7*

*Numbers marked with asterisks indicate that the Enterprise failed to meet the goal.

B. Proposed Benchmark Levels for the Single-Family Housing Goals for 2022–2024

FHFA is proposing to establish the following benchmark levels for the single-family housing goals and subgoals for 2022–2024.

1. Low-Income Home Purchase Goal

The low-income home purchase goal is based on the percentage of all single-family, owner-occupied home purchase mortgages purchased by an Enterprise that are for low-income families, defined as families with incomes less

than or equal to 80 percent of AMI. The proposed rule would set the annual low-income home purchase goal benchmark level for 2022 through 2024 at 28 percent.

Table 2. Enterprise Low-Income Home Purchase Goal

Year	Historical Performance			Projected Forecast			
	2018	2019	2020	2021	2022	2023	2024
Actual Market	25.5%	26.6%	27.6%				
Benchmark	24.0%	24.0%	24.0%	24.0%			
Current Market Forecast				28.9% +/- 4.0%	26.9% +/- 5.1%	26.2% +/- 6.1%	26.4% +/- 6.9%
Fannie Mae Performance							
Low-Income Home Purchase Mortgages	294,559	298,702	374,376				
Total Home Purchase Mortgages	1,044,098	1,075,032	1,288,806				
Low-Income % of Home Purchase Mortgages	28.2%	27.8%	29.0%				
Freddie Mac Performance							
Low-Income Home Purchase Mortgages	199,429	235,811	280,561				
Total Home Purchase Mortgages	774,394	860,669	982,888				
Low-Income % of Home Purchase Mortgages	25.8%	27.4%	28.5%				

As shown in Table 2, both Enterprises exceeded both the benchmark and market levels in 2018 and 2019. Although FHFA will not officially determine the 2020 housing goals performance of the Enterprises until later in 2021, both Enterprises exceeded the benchmark level in 2020.

The low-income home purchase market levels have increased steadily since 2016. FHFA's current model forecasts that the market for this goal in 2020 will continue to increase and end up between 27 and 31.6 percent. From 2022 through 2024, the proposed goal period, the current forecast is expected to decline slightly from these peaks and stay around 26 percent for each of the three years. As noted previously and in the accompanying market model paper, this forecast is based on the 2019 HMDA data and Moody's forecasts as of July

2021 and will be updated before the release of the final housing goals rule.

FHFA is proposing a benchmark level for the low-income home purchase goal of 28 percent, which is above the middle point of the market forecast but well within the confidence interval for each year. This proposed benchmark level is significantly higher than the benchmark level of 24 percent that has been in place each year since 2015. FHFA is proposing a higher benchmark level for this goal in order to encourage the Enterprises to continue to find ways to support lower income borrowers without compromising safe and sound lending standards. FHFA recognizes that there may be challenges to meeting the goal, particularly in light of the recovery from the global pandemic. FHFA will continue to monitor the Enterprises in its capacities as regulator

and as conservator, and if FHFA determines that the benchmark level for the low-income home purchase goal is not feasible for the Enterprises to achieve in light of market conditions, or for any other reason, FHFA will take appropriate steps to adjust the benchmark level.

2. Very Low-Income Home Purchase Goal

The very low-income home purchase goal is based on the percentage of all single-family, owner-occupied home purchase mortgages purchased by an Enterprise that are for very low-income families, defined as families with incomes less than or equal to 50 percent of AMI. The proposed rule would set the annual very low-income home purchase goal benchmark level for 2022 through 2024 at 7 percent.

Table 3. Very Low-Income Home Purchase Goal

Year	Historical Performance			Projected Forecast			
	2018	2019	2020	2021	2022	2023	2024
Actual Market	6.5%	6.6%	7.0%				
Benchmark	6.0%	6.0%	6.0%	6.0%			
Current Market Forecast				7.6% +/- 1.4%	6.8% +/- 1.8%	6.6% +/- 2.1%	6.6% +/- 2.4%
Fannie Mae Performance							
Very Low-Income Home Purchase Mortgages	69,952	70,214	93,909				
Total Home Purchase Mortgages	1,044,098	1,075,032	1,288,806				
Very Low-Income % of Home Purchase Mortgages	6.7%	6.5%	7.3%				
Freddie Mac Performance							
Very Low-Income Home Purchase Mortgages	48,823	58,136	68,216				
Total Home Purchase Mortgages	774,394	860,669	982,888				
Very Low-Income % of Home Purchase Mortgages	6.3%	6.8%	6.9%				

As shown in Table 3, both Enterprises exceeded the benchmark level in 2018 and 2019. In 2018, Fannie Mae exceeded both the benchmark and

market levels, and in 2019, Freddie Mac exceeded both the benchmark and market levels. In 2020, both Fannie Mae and Freddie Mac exceeded the

benchmark levels. FHFA will officially determine the 2020 market performance of the Enterprises later in 2021.

Like the low-income home purchase market levels, the very low-income home purchase market levels have increased steadily since a low in 2016 of 5.4 percent. FHFA’s current model forecasts that the market for this goal in 2020 will continue to increase and end up between 6.5 and 8.1 percent. From 2022 through 2024, the proposed goal period, the current forecast is expected to decline slightly from these peaks and stay between 6.4 and 6.8 percent for each of the three years. This forecast is based on the latest data available and will be updated before the release of the final housing goals rule.

FHFA is proposing a benchmark level for the very low-income home purchase goal of 7 percent, which is close to the market forecast and well within the confidence interval for each year. This proposed benchmark level is an increase from the benchmark level of 6 percent that has been in place each year since 2015. FHFA is proposing a slightly higher benchmark level in order to encourage the Enterprises to continue to find ways to support very low-income borrowers without compromising safe and sound lending standards. FHFA recognizes that there may be challenges to meeting the goal, particularly in light of the recovery from the global pandemic. FHFA will continue to monitor the Enterprises in its capacities as regulator and as conservator, and if FHFA determines that the benchmark level for the low-income home purchase

goal is not feasible for the Enterprises to achieve in light of market conditions, or for any other reason, FHFA will take appropriate steps to adjust the benchmark level.

3. Proposed Area-Based Subgoals

The proposed rule would establish two new area-based subgoals, each with its own benchmark level. The new minority census tracts subgoal would specifically assess the Enterprises’ performance in minority areas with respect to loans for families with incomes no greater than 100 percent of AMI. The new low-income census tracts subgoal would assess the Enterprises’ performance in low-income census tracts. The low-income census tracts subgoal would not include any loans that would qualify for the minority census tracts subgoal. In other words, the low-income census tracts subgoal would be limited to: (1) Loans in low-income census tracts that are not minority census tracts, and (2) loans to borrowers above 100 percent of AMI in low-income census tracts that are also minority census tracts. The two proposed subgoals would replace the existing low-income areas home purchase subgoal and address some of the issues that FHFA previously identified in the 2018–2020 proposed rule as well as in Question 2 of the recent ANPR (2020) discussed in Section III.D. above.³⁵

The previous subgoal structure allowed the Enterprises to count all

single-family, owner-occupied home purchase mortgages purchased that were either: (1) For families in low-income areas, defined to include census tracts with median income less than or equal to 80 percent of AMI; or (2) for families with incomes less than or equal to AMI who reside in minority census tracts (defined as census tracts with a minority population of at least 30 percent and a tract median income of less than 100 percent of AMI). As a result, borrowers could qualify under either or both conditions. Over the years, this has meant that many goal-qualifying loans purchased by the Enterprises were for higher income families (over 100 percent of AMI) rather than for families at or below 100 percent of AMI. The proposed rule would modify the previous structure and refocus Enterprise efforts towards minority census tracts and families at or below 100 percent of AMI. The new subgoal structure would require the Enterprises to achieve both of the new subgoal benchmark levels each year. FHFA will continue to establish the overall low-income areas housing goal on an annual basis by adding together the benchmark levels for the minority census tracts subgoal and the low-income census tracts subgoal, along with the disaster areas increment determined by FHFA each year.

The proposed rule would establish the benchmark levels for the new subgoals for 2022–2024 as follows:

Subgoal	Criteria	Proposed benchmark level for 2022–2024 (percent)
Minority Census Tracts Subgoal.	Home purchase mortgages on single-family, owner-occupied properties to borrowers with income no greater than 100 percent of AMI in minority census tracts. ¹	10
Low-Income Census Tracts Subgoal.	(i) Home purchase mortgages on single-family, owner-occupied properties to borrowers (regardless of income) in low-income census tracts ² that are not minority census tracts, and (ii) home purchase mortgages on single-family, owner-occupied properties to borrowers with incomes greater than 100 percent of AMI in low-income census tracts that are also minority census tracts.	4
Minority Census Tracts Subgoal.	Home purchase mortgages on single-family, owner-occupied properties to borrowers with income no greater than 100 percent of AMI in minority census tracts. ¹	10

¹ Census tracts that have a minority population of at least 30 percent and a median income of less than 100 percent of AMI.
² Census tracts where the median income is no greater than 80 percent of AMI.

FHFA recognizes that, in the past, some loans acquired by the Enterprises were from locations considered both minority and low-income census tracts and, as a result, would have been counted under either criterion. The proposed rule would define the new subgoals so that a loan could not be counted under both of the new subgoals. Under the proposed rule, for loans

purchased from areas that meet the criteria for both minority and low-income census tracts, the borrower’s AMI would determine under which subgoal the loan would be eligible. If the borrower’s income is less than or equal to 100 percent of AMI, the loan would be counted towards the minority census tracts subgoal, and if the borrower’s income is above 100 percent of AMI, the

loan would be counted towards the low-income census tracts subgoal. FHFA believes that requiring the Enterprises to specifically and separately target loans for families living in minority and low-income census tracts will result in better and more transparent reporting on both of these categories.

FHFA will continue to set a benchmark level for the overall low-

³⁵ See <https://www.fhfa.gov/SupervisionRegulation/Rules/Pages/Enterprise->

[Housing-Goals-Advance-Notice-of-Proposed-Rulemaking.aspx](https://www.fhfa.gov/SupervisionRegulation/Rules/Pages/Enterprise-Housing-Goals-Advance-Notice-of-Proposed-Rulemaking.aspx).

income areas housing goal that will include mortgages to families with incomes less than or equal to 100 percent of AMI who are located in federally declared disaster areas.³⁶ The proposed rule would define the low-income areas housing goal to be the sum of (i) the benchmark level for the new minority census tracts subgoal, (ii) the benchmark level for the new low-

income census tracts subgoal, and (iii) a disaster areas increment set in accordance with existing practice. Because the minority census tracts subgoal and the low-income census tracts subgoal are defined with no overlap between them, the proposed definition of the overall low-income areas housing goal is exactly equivalent to the current low-income areas housing

goal. The disaster low-income areas housing goal benchmark level is set annually by FHFA separately from this rulemaking. Each year, FHFA notifies the Enterprises by letter of the benchmark level for that year, and this practice will continue.

The tables below provide recent performance of both Enterprises in these subgoal areas.

Minority census tracts subgoal	Recent performance (percent)		
	2018	2019	2020
Market	9.0	9.2	9.2
Fannie Mae Performance	11.0	10.7	10.1
Freddie Mac Performance	9.0	9.5	9.2

Source: FHFA's tabulation of Home Mortgage Disclosure Act (HMDA) and Enterprises' data.

Low-income census tracts subgoal	Recent performance (percent)		
	2018	2019	2020
Market	9.1	8.9	8.5
Fannie Mae Performance	9.1	8.8	8.3
Freddie Mac Performance	8.3	8.5	8.0

Source: FHFA's tabulation of Home Mortgage Disclosure Act (HMDA) and Enterprises' data.

The proposed rule would establish the benchmark level for the minority census tracts subgoal at 10 percent. This proposed benchmark level is slightly higher than the Enterprises' recent performance, when measured as if the proposed subgoal had been in place. FHFA is proposing this higher benchmark level to ensure that the Enterprises are targeting the needs of communities of color and to emphasize the importance of improving access to credit in these communities.

The proposed rule would establish the benchmark level for the low-income census tracts subgoal at 4 percent. This proposed benchmark level is lower than

the Enterprises' recent performance, when measured as if the proposed subgoal had been in place. FHFA is proposing this lower benchmark level due to concerns about incentivizing purchases of loans to higher-income borrowers in low-income areas. However, this proposed benchmark level is intended to encourage the Enterprises to continue providing critically needed access to credit in low-income areas.

FHFA believes that the proposed benchmark levels for each of the new area-based subgoals are feasible and would not be disruptive to the market. FHFA specifically requests comments

on the new proposed subgoal structure and the proposed benchmark levels.

4. Low-Income Refinancing Goal

The low-income refinancing goal is based on the percentage of all single-family, owner-occupied refinance mortgages purchased by an Enterprise that are for low-income families, defined as families with incomes less than or equal to 80 percent of AMI. The proposed rule would set the annual low-income refinancing housing goal benchmark level for 2022 through 2024 at 26 percent.

³⁶ Disaster declarations are listed on the FEMA website at <https://www.fema.gov/disasters>.

Table 4. Low-Income Refinancing Goal

Year	Historical Performance			Projected Forecast			
	2018	2019	2020	2021	2022	2023	2024
Actual Market	30.7%	24.0%	21.0%				
Benchmark	21.0%	21.0%	21.0%	21.0%			
Current Market Forecast				25.5% +/- 4.7%	26.1% +/- 6.0%	28.0% +/- 7.1%	28.9% +/- 7.9%
Fannie Mae Performance							
Low-Income Refinance Mortgages	196,230	234,249	663,667				
Total Refinance Mortgages	629,816	985,932	3,133,931				
Low-Income % of Refinance Mortgages	31.2%	23.8%	21.2%				
Freddie Mac Performance							
Low-Income Refinance Mortgages	104,843	159,322	490,176				
Total Refinance Mortgages	384,593	712,376	2,485,748				
Low-Income % of Refinance Mortgages	27.3%	22.4%	19.7%				

As shown in Table 4, both Enterprises exceeded the benchmark level for the low-income refinancing goal in 2018 and 2019. In 2020, Fannie Mae exceeded the benchmark level, while Freddie Mac did not. Fannie Mae exceeded the market levels for this goal in 2018 and 2020, but not in 2019. Freddie Mac has trailed the market level each year from 2018 through 2020. As noted, 2020 data reflects FHFA's preliminary determination of Enterprise performance on this goal.

FHFA is proposing a benchmark level for the low-income refinancing goal of 26 percent, which is close to the market forecast and well within the confidence interval for each year. This proposed benchmark level is an increase from the current benchmark level of 21 percent, but on the lower end of the range of estimates for 2023 and 2024. FHFA is proposing a slightly lower benchmark level due to the unpredictability of future interest rates and refinancing volumes, which result in greater volatility in the low-income shares for refinancing mortgages than what is typical for the home purchase mortgage market. FHFA will continue to monitor the Enterprises in its capacities as regulator and as conservator, and if FHFA determines that the benchmark level for the low-income refinancing goal is not feasible, then FHFA will take appropriate steps to adjust the benchmark level.

V. Multifamily Housing Goals

A. Factors Considered in Setting the Proposed Multifamily Housing Goal Levels

In setting the proposed benchmark levels for the multifamily housing goals, FHFA has considered the statutory factors outlined in Section 1333(a)(4) of the Safety and Soundness Act. These factors include:

1. National multifamily mortgage credit needs and the ability of the Enterprises to provide additional liquidity and stability for the multifamily mortgage market;
2. The performance and effort of the Enterprises in making mortgage credit available for multifamily housing in previous years;
3. The size of the multifamily mortgage market for housing affordable to low-income and very low-income families, including the size of the multifamily markets for housing of a smaller or limited size;
4. The ability of the Enterprises to lead the market in making multifamily mortgage credit available, especially for multifamily housing affordable to low-income and very low-income families;
5. The availability of public subsidies; and
6. The need to maintain the sound financial condition of the Enterprises.³⁷

Unlike the single-family housing goals, performance on the multifamily housing goals is measured solely against a benchmark level set by FHFA, without any retrospective market measure. The absence of a retrospective market measure for the multifamily housing goals results, in part, from the lack of comprehensive data about the multifamily mortgage market. Unlike the single-family mortgage market, where HMDA provides a reasonably comprehensive dataset about single-family mortgage originations each year, the multifamily mortgage market (and the affordable multifamily mortgage market segment) has no comparable single, unified source with coverage extending across many years. As a result, it is difficult to correlate different datasets that rely on different reporting metrics.

³⁷ 12 U.S.C. 4563(a)(4).

The lack of comprehensive data for the multifamily mortgage market is even more acute with respect to the segments of the market that are targeted to low-income families, defined as families with incomes at or below 80 percent of AMI, and very low-income families, defined as families with incomes at or below 50 percent of AMI.

Another difference between the single-family and multifamily housing goals is that while there are separate single-family housing goals for home purchase and refinancing mortgages, the multifamily housing goals include all Enterprise multifamily mortgage purchases, regardless of the purpose of the loan. In addition, unlike the single-family housing goals, the multifamily housing goals are measured based on the total number of affordable units in properties financed by multifamily mortgage loans rather than on a percentage of affordable units in properties financed by multifamily mortgage loans. The use of total number of eligible units rather than percentages requires that FHFA take into account the expected size of the overall multifamily mortgage market and the affordable share of the market, as well as the expected volume of the Enterprises' overall multifamily purchases (in dollar terms) and the affordable share of those purchases.

Methodology. FHFA sets the multifamily benchmark levels by estimating the minimum number of affordable rental units in multifamily properties financed by mortgage loans purchased by each Enterprise that would be needed to ensure a strong focus on affordability by the Enterprises in the proposed goal period. FHFA achieves this by considering the required statutory factors, a number of which are related, as discussed below. For the proposed 2022–2024 goal

period, FHFA also took into account the PSPA limit on each Enterprise's multifamily mortgage acquisitions, which is \$80 billion over a trailing 52-week period and requires that 50 percent of that amount be mission-driven mortgages, as determined by FHFA.³⁸ Much of the analysis below describes trends in the overall multifamily mortgage market as they apply to setting the proposed benchmark levels. FHFA recognizes that these general trends may not apply to the same extent to all segments of the multifamily mortgage market.

Affordability in the multifamily mortgage market. There are several factors that make it difficult to accurately forecast the affordable share of the multifamily mortgage market. First, the portion of the overall multifamily mortgage market that provides housing units affordable to low-income and very low-income families may vary from year-to-year. Second, the competition between purchasers of mortgages within the multifamily mortgage market overall may differ from the competition within the affordable multifamily mortgage market segment. Finally, the volume for the affordable multifamily mortgage market segment also will depend on the availability of affordable housing subsidies.

FHFA determines affordability based on a family's rent and utility expenses not exceeding 30 percent of AMI.³⁹ Using this measure, affordability for families living in rental units has decreased in recent years for many families. According to the Joint Center for Housing Studies (JCHS), in its 2020 State of the Nation's Housing Report, prior to 2020, the composition of housing stock had already negatively affected affordability. For example, the report stated that while housing stock grew by 7.5 million units between 2004 and 2019, most of these additions were in single-family rentals or properties with 20 units or higher, whereas the number of units in two- to four-unit buildings declined by 38,000 units. The units in larger multifamily buildings tend to have higher median rents.⁴⁰ The supply of apartments with rents of \$600 or lower declined by 2.5 million between 2004 and 2019, unlike apartments with rents of over \$1,000,

which increased by 10.4 million units within the same time period, according to the JCHS report.

The JCHS study of the rental market noted the growing presence of cost-burdened renters in certain income segments. Although, in 2019, the share of tenants that paid more than 30 percent of household income for rental housing decreased, at close to 50 percent, that number was still high. Specifically, the share of cost-burdened households with incomes between \$25,000 and \$74,999 increased between 2011 and 2019.⁴¹ This is significant because the housing goals statute defines affordability at the 30 percent threshold.⁴²

The supply gap in affordable units combined with the prevalence of cost-burdened renters has led to an erosion of affordability, with fewer units qualifying for the housing goals. This affordability gap is also reflected in the falling share of the low-income multifamily units backing loans purchased by the Enterprises. While 77 percent of the multifamily units financed by mortgages purchased by Fannie Mae in 2011 were low-income, that share dropped steadily in the intervening years to 64 percent in 2017, rising to 69 percent in 2020. At Freddie Mac, the low-income share also peaked in 2011 and 2012 at 79 percent, and decreased gradually to 65 percent in 2017, rising to 71 percent in 2020.

Financing for affordable multifamily buildings—particularly those that are affordable to very low-income families—often uses an array of state and federal housing subsidies, such as low-income housing tax credits (LIHTCs), tax-exempt bonds, Section 8 rental assistance, or soft subordinate financing.⁴³ Investor interest in tax credit equity projects of all types and in all markets has been strong in recent years, especially in markets in which bank investors are seeking to meet Community Reinvestment Act (CRA) goals. Consequently, there should continue to be opportunities in the multifamily mortgage market to provide

permanent financing for properties with LIHTCs during the 2022–2024 period. Additionally, there should be opportunities for market participants, including the Enterprises, to purchase mortgages that finance the preservation of existing affordable housing units (especially for restructurings of older properties that reach the end of their initial 15-year LIHTC compliance periods and for refinancing properties with expiring Section 8 Housing Assistance Payment contracts).

Availability of public subsidies. Multifamily housing assistance is primarily available in two forms—demand-side subsidies which either directly assist low-income tenants (e.g., Section 8 vouchers) or provide project-based rental assistance (Section 8 contracts), and supply-side subsidies which support the creation and preservation of affordable housing (e.g., public housing and LIHTCs). The availability of public subsidies impacts the overall affordable multifamily housing market, and significant changes to historic programs could impact the ability of the Enterprises to meet the housing goals. The Enterprises also play a role in providing liquidity to facilitate the preservation of public subsidies, like expiring Section 8 Housing Assistance Payment contracts and LIHTC properties reaching the end of the use restricted affordability period.

The need for public subsidies persists as the number of cost-burdened renters remains high, at over 20 million renter households in 2019.⁴⁴ The Center for Budget Policy Priorities estimates that only one in four households eligible for federal housing assistance currently receives it.⁴⁵

Certain public subsidies have been provided since March 2020 to help the affordable housing sector and low-income households during the pandemic. The CARES Act provided supplemental unemployment benefits to help people pay their rent, but those benefits expired on July 31, 2020. In December 2020, the Consolidated Appropriations Act, 2021 reinstated supplemental unemployment benefits through March 14, 2021. In March, the American Rescue Plan Act of 2021 extended those benefits through September 6, 2021.

⁴¹ "The State of the Nation's Housing 2020," Joint Center for Housing Studies of Harvard University, December 2020, p. 1, available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2020_Report_Revised_120720.pdf.

⁴² See 12 U.S.C. 4563(c).

⁴³ LIHTCs are a supply-side subsidy created under the Tax Reform Act of 1986 and is the main source of new affordable housing construction in the United States. LIHTCs are used for the acquisition, rehabilitation, and/or new construction of rental housing for low-income households. LIHTCs have facilitated the creation or rehabilitation of approximately 2.4 million affordable units since inception of the program in 1986.

³⁸ See <https://home.treasury.gov/news/press-releases/sm1236>.

³⁹ See 12 U.S.C. 4563(c).

⁴⁰ "The State of the Nation's Housing 2020," Joint Center for Housing Studies of Harvard University, December 2020, p. 32, available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2020_Report_Revised_120720.pdf.

⁴⁴ The State of the Nation's Housing 2020," Joint Center for Housing Studies of Harvard University, December 2020, p. 6, available at https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2020_Report_Revised_120720.pdf.

⁴⁵ See <https://www.cbpp.org/research/housing/more-housing-vouchers-most-important-step-to-help-more-people-afford-stable-homes>.

Multifamily mortgage market. FHFA's consideration of the multifamily mortgage market addresses the size of and competition within the multifamily mortgage market, as well as the subset of the multifamily mortgage market affordable to low-income and very low-income families. The pandemic has impacted the multifamily affordable housing market and renters across the country. In February 2021, the Mortgage Bankers Association (MBA) estimated that multifamily mortgage originations declined by 17 percent in 2020 relative to the previous year. The MBA also anticipated a partial recovery in 2021, with total multifamily mortgage originations projected to be \$323 billion, a 7 percent increase from 2020 but still below the 2019 level of \$364 billion.⁴⁶

In addition, MBA's February forecast anticipated an economic rebound in 2021 that should bring stability to the market and projected that multifamily mortgage lending should almost fully rebound in 2022 to \$358 billion, just shy of the 2019 level. Despite that overall expected rebound, recent multifamily housing trends point to likely prolonged and diverse impacts in subsegments. According to the National Multifamily Housing Council's tabulation of American Community Survey microdata, in 2019 about 45.4 percent of renter households (20 million households) lived in multifamily properties, defined as structures with five or more rental units with the remaining renter households living in 1–4 unit single-family structures.⁴⁷ Nationally, on a year-over-year basis, rent growth slowed during the pandemic to 0.3 percent in 2020, according to CoStar data. Growth accelerated in the first half of the year, with the second quarter of 2021 growing by 7.1 percent relative to one year earlier. Vacancy rates rose during the pandemic but have begun to decline in 2021.

Role of the Enterprises. In setting the proposed multifamily housing goal benchmark levels, FHFA has considered the ability of the Enterprises to lead the market in making multifamily mortgage credit available. The Enterprises' share of the overall multifamily mortgage origination market increased in the

years immediately following the financial crisis, but their share has declined more recently in response to growing private sector participation. The Enterprises' share of the multifamily mortgage origination market was approximately 70 percent in 2008 and 2009, compared to 38 percent in 2015.⁴⁸ The total share has remained at around 40 percent since 2015, due for the most part to the cap imposed by FHFA in its role as conservator under the Conservatorship Scorecard, with the exception of 2017 and 2020 when that share was around 50 percent.

FHFA and the Enterprises have also taken numerous actions to support the multifamily housing market and provide relief to renters since March 2020. For example, on March 23, 2020, FHFA and the Enterprises announced that forbearance would be available to Enterprise-backed multifamily property owners on the condition that they suspend eviction of tenants struggling to pay rent due to the pandemic.⁴⁹ On June 29, 2020, FHFA announced that the Enterprises would offer extended forbearance agreements for multifamily property owners with existing forbearance agreements for up to three months, for a total forbearance of up to six months.⁵⁰ Under the terms of the Enterprise forbearance agreements, while mortgage payments are in forbearance, the landlord must suspend all evictions for renters unable to pay rent and offer other protections for renters. This forbearance program was extended several times, with the most recent extension through September 30, 2021.^{51 52 53} On May 4, 2020, the Enterprises published online multifamily property lookup tools so that tenants could determine if the multifamily property in which they reside has an Enterprise-backed mortgage and fell under the CARES Act's 120-day eviction moratorium. On August 6, 2020, FHFA announced that multifamily property owners in new

forbearance agreements must inform tenants in writing about tenant protections, and that the Enterprises are improving their online multifamily property loan lookup tools.

FHFA expects the Enterprises to continue to demonstrate leadership in multifamily affordable housing lending by providing liquidity and supporting housing for tenants at different income levels in various geographic markets and in various market segments.

Conservatorship limits on multifamily mortgage purchases (Conservatorship Scorecard cap) and other factors.

Beginning in 2015, as conservator for the Enterprises, FHFA has set a yearly cap under the Conservatorship Scorecard that limits the total unpaid principal balance of multifamily loans that each Enterprise may purchase. The multifamily mortgage purchase cap furthers FHFA's conservatorship goals of maintaining the presence of the Enterprises as a backstop for the multifamily finance market while not impeding the participation of private capital. These targets for the Enterprise purchase share of the multifamily origination market reflect what is generally considered by FHFA as an appropriate market share for the Enterprises during normal market conditions. To encourage the Enterprises to participate in purchasing loans financing properties in underserved multifamily market segments, from 2015 through 2019, FHFA excluded several categories of multifamily business from the cap.

FHFA revised the cap structure in September 2019 by placing a cap on all multifamily loan purchases (no exclusions) and requiring a minimum amount of this capped amount to be for affordable and underserved market segments. The cap was set at \$100 billion for each Enterprise, a combined total of \$200 billion, for the five-quarter period from the fourth quarter of 2019 through the fourth quarter of 2020. In November 2020, FHFA announced the new multifamily loan purchase cap for the 2021 calendar year of \$70 billion for each Enterprise, a combined total of \$140 billion.⁵⁴

The Conservatorship Scorecard cap applies to the entire multifamily business for each Enterprise without any exclusions. To ensure a strong focus on affordable housing and underserved markets, the 2021 Conservatorship Scorecard requires that at least 50 percent of each Enterprises' multifamily

⁴⁶ Urban Institute, "The GSEs' Shrinking Role in the Multifamily Market," April 2015, pg. 4: <https://www.urban.org/sites/default/files/publication/48986/2000174-The-GSEs-Shrinking-Role-in-the-Multifamily-Market.pdf>.

⁴⁹ See <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Moves-to-Provide-Eviction-Suspension-Relief-for-Renters-in-Multifamily-Properties.aspx>.

⁵⁰ See <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Provides-Tenant-Protections.aspx>.

⁵¹ See <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-COVID-19-Multifamily-Forbearance-through-March-31-2021.aspx>.

⁵² See <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-COVID-19-Multifamily-Forbearance-through-June-30-2021.aspx>.

⁵³ See <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Extends-COVID-19-Multifamily-Forbearance-through-September-30-2021.aspx>.

⁵⁴ FHFA Announces 2021 Multifamily Loan Purchase Caps for Fannie Mae and Freddie Mac, November 17, 2020: <https://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Announces-2021-MF-Loan-Purchase-Caps-for-Fannie-and-Freddie.aspx>.

⁴⁶ See <https://www.mba.org/2021-press-releases/february/mba-forecast-commercial-multifamily-lending-to-increase-11-percent-to-486-billion-in-2021>; <https://newslink.mba.org/cmf-newslinks/2020/november/mba-commercial-multifamily-newslink-nov-12-2020/mba-forecast-2020-commercial-multifamily-lending-down-34-from-2019-record-volumes/>.

⁴⁷ Accessed on 5/18/2021 at <https://www.nmhc.org/research-insight/quick-facts-figures/quick-facts-resident-demographics/household-characteristics>.

loan purchases be mission-driven, affordable housing. Multifamily loans considered to be mission-driven, affordable include: Subsidized/assisted affordable housing; manufactured housing communities; affordable units in small multifamily properties; affordable properties in rural areas; affordable units in seniors housing assisted living properties; and market rate units affordable to residents at or below 80 percent of AMI. Furthermore, the 2021 Conservatorship Scorecard requires that a minimum of 20 percent of Enterprise multifamily loan purchases be affordable to residents at 60 percent of AMI or below. Multifamily loan purchases that meet the minimum 20 percent requirement may also count as loan purchases that meet the minimum 50 percent requirement.^{55 56}

In addition to the Conservatorship Scorecard cap, FHFA also incorporated the January 2021 PSPA requirements when determining appropriate multifamily benchmarks for 2022–2024. These requirements include a PSPA cap of \$80 billion over the prior 52-week period, which is greater than the current Conservatorship Scorecard cap for 2021 and places an upper bound on Enterprise share. FHFA will continue to review its estimates of market size and mission-driven requirements throughout the year. FHFA may take appropriate action to adjust the multifamily housing goals benchmark levels should changes to the Conservatorship Scorecard cap, the PSPAs, or other market conditions

warrant an adjustment, whether in 2021 or in future years.

Maintaining the sound financial condition of the Enterprises. In setting the proposed multifamily housing goals benchmark levels, FHFA must balance the role that the Enterprises play in providing liquidity and supporting various multifamily mortgage market segments with the need to maintain the Enterprises in sound and solvent financial condition. The Enterprises have served as a stabilizing force in the multifamily mortgage market. During the conservatorship period, the Enterprises' portfolios of loans on multifamily affordable housing properties have experienced low levels of delinquency and default, similar to the performance of multifamily loans on market rate properties. The Enterprises, therefore, should be able to sustain or increase their volume of purchases of loans on affordable multifamily housing properties without impacting the Enterprises' safety and soundness or negatively affecting the performance of their total mortgage loan portfolios.

FHFA continues to monitor the activities of the Enterprises in FHFA's capacity as safety and soundness regulator and as conservator. If necessary, FHFA will make appropriate changes in the multifamily housing goals benchmark levels to ensure the Enterprises' continued safety and soundness.

B. Proposed Multifamily Housing Goals Benchmark Levels

Based on FHFA's consideration of the statutory factors described above and the performance of the Enterprises described in this section, the proposed rule would establish benchmark levels for the multifamily housing goals for the Enterprises, as further discussed below. Before finalizing the benchmark levels

for the low-income and very low-income multifamily goals in a final rule, FHFA will review any additional data that becomes available about the multifamily housing goals performance of the Enterprises through 2020, any additional information about the Conservatorship Scorecard cap for 2022 that is available, and any other information about the multifamily mortgage market or other factors, along with any comments on the proposed multifamily housing goals benchmark levels.

1. Multifamily Low-Income Housing Goal

The multifamily low-income housing goal is based on the total number of rental units in multifamily properties financed by mortgages purchased by the Enterprises that are affordable to low-income families, defined as families with incomes less than or equal to 80 percent of AMI.

Both Enterprises have exceeded the low-income multifamily housing goal by significant margins in recent years. Taking into account the Conservatorship Scorecard cap and PSPA limits, as well as the multifamily market conditions described above, FHFA is proposing to raise the multifamily low-income housing goal benchmark level to 415,000 units for 2022–2024. This proposed benchmark level would be a significant increase over the benchmark level that has been in place since 2018. FHFA believes that this proposed increase is appropriate and achievable for the Enterprise in light of the past performance of the Enterprises on this housing goal and the current loan purchase volumes that would be permitted for the Enterprises under the applicable Conservatorship Scorecard cap and PSPA limits.

⁵⁵ Appendix A: Multifamily Definitions to the 2021 Scorecard, November 17, 2020: <https://www.fhfa.gov/Media/PublicAffairs/PublicAffairsDocuments/2021-Appendix-A.pdf>.

⁵⁶ 2021 Scorecard for Fannie Mae, Freddie Mac, and Common Securitization Solutions, February 2021: <https://www.fhfa.gov/AboutUs/Reports/ReportDocuments/2021-Scorecard.pdf>.

Table 5. Multifamily Low-Income Housing Goal

Year	Performance						
	2014	2015	2016	2017	2018	2019	2020
Fannie Mae Benchmark	250,000	300,000	300,000	300,000	315,000	315,000	315,000
Freddie Mac Benchmark	200,000	300,000	300,000	300,000	315,000	315,000	315,000
Fannie Mae Performance							
Low-Income Multifamily Units	262,050	307,510	352,368	401,145	421,813	385,763	441,773
Total Multifamily Units	372,072	468,798	552,785	630,868	628,230	596,137	637,696
Low-Income % Total	70.4%	65.6%	63.7%	63.6%	67.1%	64.7%	69.3%
Freddie Mac Performance							
Low-Income Multifamily Units	273,434	379,042	406,958	408,096	474,062	455,451	473,338
Total Multifamily Units	366,377	514,275	597,399	630,037	695,587	661,417	667,451
Low-Income % of Total Units	74.6%	73.7%	68.1%	64.8%	68.2%	68.9%	70.9%

2. Multifamily Very Low-Income Housing Subgoal

The multifamily very low-income housing subgoal includes units affordable to very low-income families, defined as families with incomes no greater than 50 percent of AMI.

Both Enterprises have exceeded the multifamily very low-income housing subgoal by significant margins in recent

years. Taking into account the Conservator Scorecard cap and PSPA limits, as well as the multifamily mortgage market conditions described above, FHFA is proposing to raise the multifamily low-income housing subgoal benchmark level to 88,000 units for 2022–2024. This proposed benchmark level would be a significant increase over the benchmark level that

has been in place since 2018. FHFA believes that this proposed increase is appropriate and achievable for the Enterprise in light of the past performance of the Enterprises on this housing subgoal and the current loan purchase volumes that would be permitted for the Enterprises under the applicable Conservatorship Scorecard cap and PSPA limits.

Table 6. Multifamily Very Low-Income Subgoal

Year	Performance						
	2014	2015	2016	2017	2018	2019	2020
Fannie Mae Benchmark	60,000	60,000	60,000	60,000	60,000	60,000	60,000
Freddie Mac Benchmark	40,000	60,000	60,000	60,000	60,000	60,000	60,000
Fannie Mae Performance							
Very Low-Income Multifamily Units	60,542	69,078	65,910	82,674	80,891	79,649	95,416
Total Multifamily Units	372,072	468,798	552,785	630,868	628,230	596,137	637,696
Very Low-Income % of Total Units	16.3%	14.7%	11.9%	13.1%	12.9%	13.4%	15.0%
Freddie Mac Performance							
Very Low-Income Multifamily Units	48,689	76,935	73,030	92,274	105,612	112,773	107,105
Total Home Purchase Mortgages	366,377	514,275	597,399	630,037	695,587	661,417	667,451
Very Low-Income % of Total Units	13.3%	15.0%	12.2%	14.6%	15.2%	17.1%	16.0%

3. Small Multifamily Low-Income Housing Subgoal

The Enterprise housing goals regulation defines a small multifamily property as a property with 5 to 50 units. The small multifamily low-income housing subgoal is based on the total number of units in small multifamily properties financed by mortgages purchased by the Enterprises that are affordable to low-income families, defined as families with

incomes less than or equal to 80 percent of AMI.

This subgoal was created in the 2015–2017 housing goals rulemaking, and initially set at 6,000 units in 2015, gradually increasing to 10,000 units in 2017. Monitoring trends in this multifamily market segment is challenging, and there is evidence that small multifamily properties were hit particularly hard in 2020 as a result of the pandemic. FHFA is proposing to raise the benchmark level for this

subgoal to 23,000 units for 2022–2024. This proposed benchmark level would be a significant increase over the benchmark level that has been in place since 2018. FHFA believes that this proposed increase is appropriate and achievable for the Enterprise in light of the past performance of the Enterprises on this housing subgoal and the current loan purchase volumes that would be permitted for the Enterprises under the applicable Conservatorship Scorecard cap and PSPA limits.

Table 7. Small Multifamily Low-Income Subgoal

	Performance						
Year	2014	2015	2016	2017	2018	2019	2020
Small Low-Income Multifamily Benchmark		6,000	8,000	10,000	10,000	10,000	10,000
Fannie Mae Performance							
Small Low-Income Multifamily Units	6,732	6,731	9,312	12,043	11,890	17,832	21,797
Total Small Multifamily Units	11,880	11,198	15,211	20,375	17,894	25,565	36,880
Low-Income % of Total Small Multifamily Units	56.7%	60.1%	61.2%	59.1%	66.4%	69.8%	59.1%
Freddie Mac Performance							
Small Low-Income Multifamily Units	2,076	12,801	22,101	39,473	39,353	34,847	28,142
Total Small Multifamily Units	4,659	21,246	33,984	55,116	53,893	46,879	41,263
Low-Income % of Total Small Multifamily Units	44.6%	60.3%	65.0%	71.6%	73.0%	74.3%	68.2%

VI. Section-by-Section Analysis of Other Proposed Changes

The proposed rule would also revise other provisions of the Enterprise housing goals regulation, as discussed below. These proposed changes are non-substantive technical changes intended to conform the housing goals regulation text to FHFA's established practices and procedures in implementing the housing goals.

FHFA welcomes comments on these technical changes and any other technical changes or corrections that are necessary. FHFA may include additional technical changes or corrections in its final rule based on comments received.

A. Definition of "Designated Disaster Area"—Proposed § 1282.1

Section 1282.1 of the current Enterprise housing goals regulation defines "designated disaster area" as "any census tract that is located in a county designated by the Federal Government as adversely affected by a declared major disaster administered by FEMA, where individual assistance payments were authorized by FEMA." While this definition accurately reflects the types of disasters that FHFA counts for purposes of calculating the disaster areas increment for the low-income areas housing goal, the definition does not reflect FHFA's longstanding practice regarding the types of assistance covered. The proposed rule would revise the definition of "designated disaster area" to refer to major disasters "where housing assistance payments were authorized by FEMA."

This proposed change to the definition of "designated disaster area" would be consistent with longstanding FHFA practice. Each year, FHFA identifies the areas that are considered "designated disaster areas" for purposes of the Enterprise housing goals in a dataset published on FHFA's website

that can be used in conjunction with other information to determine whether mortgages purchased by an Enterprise would meet the criteria for the low-income areas housing goal.⁵⁷ In practice, FHFA's identification of "designated disaster areas" for purposes of the Enterprise housing goals has been limited to areas that the Federal Emergency Management Agency (FEMA) has identified as eligible for "housing assistance" under FEMA's "Individual and Households Program" (IHP). "Individual assistance" is an umbrella term used by FEMA that encompasses a variety of types of assistance in addition to housing assistance under FEMA's IHP. "Individual assistance" includes other types of assistance under FEMA's IHP, as well as disaster case management, disaster legal services, and disaster unemployment assistance, among others.⁵⁸ If FHFA included all areas for which individual assistance payments were authorized by FEMA, it would result in areas being included as "designated disaster areas" where the relevant disaster did not have any significant direct impact on the physical housing stock. For example, if FHFA had included all areas that FEMA identified as eligible for "individual assistance" in 2020, every census tract in the United States would have been included as a "designated disaster area" for purposes of the housing goals in 2020 due to assistance related to the COVID-19 pandemic. That outcome would have been inconsistent with the purposes of the low-income areas housing goal and with FHFA's longstanding practice. To avoid this

outcome and to clarify the regulation with respect to FHFA's existing practice, the proposed rule would revise the definition of "designated disaster area" for purposes of the low-income areas housing goal to refer specifically to "housing assistance" rather than to the broader category of "individual assistance."

B. Newly Available Data—Proposed Removal of § 1282.15(i)

Section 1282.15(i) of the current Enterprise housing goals regulation provides that an Enterprise is not required to use new data related to housing goals treatment of mortgages it purchases until the start of the quarter after it receives the data. This provision was adopted originally by the U.S. Department of Housing and Urban Development (HUD) in its 1995 final rule establishing housing goals under the Safety and Soundness Act.⁵⁹ However, this provision does not reflect FHFA's longstanding practice of independently calculating each Enterprise's housing goals performance on the basis of data provided to FHFA by the Enterprise. For example, FHFA determines the AMIs applicable to each census tract on an annual basis and provides that information to the Enterprises in the first half of each year. However, in calculating Enterprise housing goals performance for that year, FHFA applies the new data to all mortgage purchases in that year. Accordingly, the proposed rule would remove § 1282.15(i) to avoid any implication that the housing goals regulation requires a particular method of calculating or applying affordability data such as AMIs. This proposed change is non-substantive and does not reflect or require any change in any of

⁵⁷ These datasets can be accessed at: <https://www.fhfa.gov/DataTools/Downloads/Pages/Underserved-Areas-Data.aspx>.

⁵⁸ Individual Assistance Program and Policy Guide (IAPPG), Version 1.1, FP 104-009-03, May 2021, page 4, accessible at <https://www.fema.gov/assistance/individual/program-policy-guide>.

⁵⁹ See 60 FR 61846 (Dec. 1, 1995). Prior to the creation of FHFA in 2008, HUD was responsible for mission oversight of Fannie Mae and Freddie Mac, including the affordable housing goals.

the processes or standards that FHFA uses to determine Enterprise housing goals performance each year.

C. Loan Modifications—Proposed Removal of § 1282.16(c)(10)

Section 1282.16(c)(10) of the current Enterprise housing goals regulation provides that the permanent modification of a mortgage under the Home Affordable Modification Program (HAMP) is counted as a refinancing for purposes of the low-income refinancing goal. Permanent loan modifications under HAMP are the only type of loan modification eligible for counting for purposes of the low-income refinancing goal. The HAMP modification program expired at the end of 2016. The proposed rule would remove § 1282.16(c)(10) from the housing goals regulation as it is no longer necessary in light of the expiration of the HAMP modification program.

VII. Paperwork Reduction Act

The proposed rule would not contain any information collection requirement that would require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted the proposed rule to OMB for review.

VIII. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. Such an analysis need not be undertaken if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). FHFA has considered the impact of the proposed rule under the Regulatory Flexibility Act. FHFA certifies that the proposed rule, if adopted as a final rule, will not have a significant economic impact on a substantial number of small entities because the rule applies to Fannie Mae and Freddie Mac, which are not small entities for purposes of the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 1282

Mortgages, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons stated in the Preamble, under the authority of 12 U.S.C. 4511, 4513, and 4526, FHFA

proposes to amend part 1282 of Title 12 of the Code of Federal Regulations as follows:

CHAPTER XII—FEDERAL HOUSING FINANCE AGENCY

SUBCHAPTER E—HOUSING GOALS AND MISSION

PART 1282—ENTERPRISE HOUSING GOALS AND MISSION

■ 1. The authority citation for part 1282 continues to read as follows:

Authority: 12 U.S.C. 4501, 4502, 4511, 4513, 4526, 4561–4566.

■ 2. Amend § 1282.1 by revising the definition of “Designated disaster area” to read as follows:

§ 1282.1 Definitions.

* * * * *

Designated disaster area means any census tract that is located in a county designated by the Federal Government as adversely affected by a declared major disaster administered by FEMA, where housing assistance payments were authorized by FEMA. A census tract shall be treated as a “designated disaster area” for purposes of this part beginning on the January 1 after the FEMA designation of the county, or such earlier date as determined by FHFA, and continuing through December 31 of the third full calendar year following the FEMA designation. This time period may be adjusted for a particular disaster area by notice from FHFA to the Enterprises.

* * * * *

■ 3. Amend § 1282.12 as follows:

■ a. Revise paragraphs (c)(2), (d)(2),

(e)(2), and (f);

■ b. Redesignate paragraph (g) as paragraph (h);

■ c. Add new paragraph (g); and

■ d. Revise newly redesignated paragraph (h)(2). The revisions and additions read as follows:

§ 1282.12 Single-family housing goals.

* * * * *

(c) * * *

(2) The benchmark level, which for 2022, 2023, and 2024 shall be 28 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(d) * * *

(2) The benchmark level, which for 2022, 2023, and 2024 shall be 7 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(e) * * *

(2) A benchmark level which shall be set annually by FHFA notice based on the sum of the benchmark levels for the low-income census tracts housing subgoal and the minority census tracts housing subgoal, plus an adjustment factor reflecting the additional incremental share of mortgages for moderate-income families in designated disaster areas in the most recent year for which such data is available.

(f) *Low-income census tracts housing subgoal.* The percentage share of each Enterprise's total purchases of purchase money mortgages on owner-occupied single-family housing that—

(1) Consists of:

(i) Mortgages in low-income census tracts that are not minority census tracts; and

(ii) Mortgages for families with incomes in excess of 100 percent of the area median income in low-income census tracts that are also minority census tracts;

(2) Shall meet or exceed either:

(i) The share of such mortgages in the market as defined in paragraph (b) of this section in each year; or

(ii) The benchmark level, which for 2022, 2023, and 2024 shall be 4 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(g) *Minority census tracts housing subgoal.* The percentage share of each Enterprise's total purchases of purchase money mortgages on owner-occupied single-family housing that consists of mortgages for moderate-income families in minority census tracts shall meet or exceed either:

(1) The share of such mortgages in the market as defined in paragraph (b) of this section in each year; or

(2) The benchmark level, which for 2022, 2023, and 2024 shall be 10 percent of the total number of purchase money mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

(h) * * *

(2) The benchmark level, which for 2022, 2023, and 2024 shall be 26 percent of the total number of refinancing mortgages purchased by that Enterprise in each year that finance owner-occupied single-family properties.

■ 4. Amend § 1282.13 by revising paragraphs (b) through (d) to read as follows:

§ 1282.13 Multifamily special affordable housing goal and subgoals.

* * * * *

(b) *Multifamily low-income housing goal.* The benchmark level for each

Enterprise's purchases of mortgages on multifamily residential housing affordable to low-income families shall be at least 415,000 dwelling units affordable to low-income families in multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2022, 2023, and 2024.

(c) *Multifamily very low-income housing subgoal.* The benchmark level for each Enterprise's purchases of mortgages on multifamily residential housing affordable to very low-income families shall be at least 88,000 dwelling units affordable to very low-income families in multifamily residential housing financed by mortgages purchased by the Enterprise in each year for 2022, 2023, and 2024.

(d) *Small multifamily low-income housing subgoal.* The benchmark level for each Enterprise's purchases of mortgages on small multifamily properties affordable to low-income families shall be at least 23,000 dwelling units affordable to low-income families in small multifamily properties financed by mortgages purchased by the Enterprise in each year for 2022, 2023, and 2024.

§ 1282.15 [Amended]

■ 5. Amend § 1282.15 by removing paragraph (i).

§ 1282.16 [Amended]

■ 6. Amend § 1282.16 by removing and reserving paragraph (c)(10).

Sandra L. Thompson,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2021-18008 Filed 8-24-21; 8:45 am]

BILLING CODE 8070-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2021-0690; Project Identifier MCAI-2020-01495-E]

RIN 2120-AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Rolls-Royce Deutschland Ltd. &

Co KG (RRD) Trent 1000 model turbofan engines. This proposed AD was prompted by the manufacturer revising the engine Time Limits Manual (TLM) life limits of certain critical rotating parts and direct accumulation counting data files. This proposed AD would require the operator to revise the airworthiness limitation section (ALS) of their existing approved aircraft maintenance program (AMP) by incorporating the revised tasks of the applicable TLM for each affected model turbofan engine, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 12, 2021.

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

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

For material that is proposed for IBR in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: <https://www.easa.europa.eu>. You may find this material on the EASA website at <https://ad.easa.europa.eu>. For RRD service information identified in this NPRM, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424 fax: +44 (0)1332 249936; website: <https://www.rolls-royce.com/contact-us.aspx>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7759. The EASA material is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0690.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0690; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT:

Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7088; fax: (781) 238-7199; email: kevin.m.clark@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2021-0690; Project Identifier MCAI-2020-01495-E" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this

NPRM. Submissions containing CBI should be sent to Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0243, dated November 5, 2020 (EASA AD 2020–0243), to correct an unsafe condition on RRD Trent 1000–AE3, Trent 1000–CE3, Trent 1000–D3, Trent 1000–G3, Trent 1000–H3, Trent 1000–J3, Trent 1000–K3, Trent 1000–L3, Trent 1000–M3, Trent 1000–N3, Trent 1000–P3, Trent 1000–Q3, and Trent 1000–R3 model turbofan engines.

This proposed AD was prompted by the manufacturer revising the engine TLM life limits of certain critical rotating parts and updating certain maintenance tasks. The FAA is proposing this AD to prevent the failure of critical rotating parts.

Related Service Information Under 1 CFR Part 51

The FAA reviewed EASA AD 2020–0243. EASA AD 2020–0243 specifies revising the approved AMP by incorporating the limitations, tasks, and associated thresholds and intervals described in the TLM. 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 ADDRESSES.

Other Related Service Information

The FAA reviewed Chapter 05–10 of Rolls-Royce (RR) Trent 1000 TLM T–TRENT–10RRT, dated August 1, 2020. RR Trent 1000 TLM T–TRENT–10RRT, Chapter 05–10, identifies the reduced

life limits of certain critical rotating parts. The FAA also reviewed Chapter 05–20 of RR Trent 1000 TLM T–TRENT–10RRT, dated August 1, 2020. RR Trent 1000 TLM T–TRENT–10RRT, Chapter 05–20, identifies the critical rotating part inspection thresholds and intervals.

FAA’s Determination

These engines 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 about the unsafe condition described in the EASA AD referenced in this proposed AD. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0243, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under “Differences Between this Proposed AD and the EASA AD.”

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0243 will be incorporated by

reference in the FAA final rule. This proposed AD would require compliance with EASA AD 2020–0243 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2020–0243 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 EASA AD 2020–0243. Service information specified in EASA AD 2020–0243 that is required for compliance with it will be available at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0690 after the FAA final rule is published.

Differences Between This Proposed AD and the EASA AD

This AD does not mandate the “Maintenance Tasks and Replacement of Critical Parts” and “Corrective Action(s)” sections of EASA AD 2020–0243. Where EASA AD 2020–0243 requires compliance from its effective date, this proposed AD would require using the effective date of this AD. Where EASA AD 2020–0243 requires revising the AMP within 12 months from its effective date, this proposed AD would require revising the existing AMP within 90 days after the effective date of this AD. This AD does not mandate compliance with the “Remarks” section of EASA AD 2020–0243.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 4 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS of the AMP	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$340

Authority for This Rulemaking

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

detail the scope of the Agency’s authority. The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing

regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc): Docket No. FAA-2021-0690; Project Identifier MCAI-2020-01495-E.

(a) Comments Due Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd. & Co KG (Type Certificate previously held by Rolls-Royce plc) Trent 1000-AE3, Trent 1000-CE3, Trent 1000-D3, Trent 1000-G3, Trent 1000-H3, Trent 1000-J3, Trent 1000-K3, Trent 1000-L3, Trent 1000-M3, Trent 1000-N3, Trent 1000-P3, Trent 1000-Q3, and Trent 1000-R3 model turbofan engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine (Turbine/Turboprop).

(e) Unsafe Condition

This AD was prompted by the manufacturer revising the engine Time Limits Manual life limits of certain critical rotating parts and direct accumulation counting data files. The FAA is issuing this AD to prevent the failure of critical rotating parts. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraph (h) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, European Union Aviation Safety Agency AD 2020-0243, dated November 5, 2020 (EASA AD 2020-0243).

(h) Exceptions to EASA AD 2020-0243

(1) The requirements specified in paragraphs (1) and (2) of EASA AD 2020-0243 are not required by this AD.

(2) Where EASA AD 2020-0243 requires compliance from its effective date, this AD requires using the effective date of this AD.

(3) Paragraph (3) of EASA AD 2020-0243 specifies revising the approved aircraft maintenance program (AMP) within 12 months after its effective date, but this AD requires revising the existing approved AMP within 90 days after the effective date of this AD.

(4) This AD does not mandate compliance with the "Remarks" section of EASA AD 2020-0243.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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 certification office, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: ANE-AD-AMOC@faa.gov.

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

(j) Related Information

(1) For more information about EASA AD 2020-0243, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@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, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7759.

This material may be found in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0690.

(2) For more information about this AD, contact Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7088; fax: (781) 238-7199; email: kevin.m.clark@faa.gov.

(3) For Rolls-Royce Deutschland service information identified in this AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424 fax: +44 (0)1332 249936; website: <https://www.rolls-royce.com/contact-us.aspx>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7759.

Issued on August 17, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021-17980 Filed 8-24-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2021-0298; Project Identifier MCAI-2020-01549-T]

RIN 2120-AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA is withdrawing a notice of proposed rulemaking (NPRM) that proposed to adopt a new airworthiness directive (AD) that would have applied to certain Airbus Canada Limited Partnership Model BD-500-1A10 airplanes. The NPRM would have required an inspection of the low-pressure distribution supply duct to determine the part number, and replacement if necessary, as specified in a Transport Canada Civil Aviation (TCCA) AD. Since issuance of the NPRM, the FAA has determined that the affected operator has already addressed the unsafe condition by incorporating the proposed required actions on the affected airplanes. Accordingly, the NPRM is withdrawn.

DATES: As of August 25, 2021, the proposed rule, which was published in

the **Federal Register** on April 16, 2021 (86 FR 20091), is withdrawn.

ADDRESSES:

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0298; 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 action, 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:

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

SUPPLEMENTARY INFORMATION:

Background

The FAA issued an NPRM that proposed to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Canada Limited Partnership Model BD–500–1A10 airplanes. The NPRM was published in the **Federal Register** on April 16, 2021 (86 FR 20091). The NPRM was prompted by a report that an incorrect low-pressure distribution supply duct may be installed in the forward cargo compartment. The NPRM proposed to require an inspection of the low-pressure distribution supply duct to determine the part number, and replacement if necessary, as specified in a Transport Canada Civil Aviation (TCCA) AD.

Actions Since the NPRM Was Issued

Since issuance of the NPRM, the FAA has verified that the proposed actions have been done on the affected airplanes. Therefore, the FAA has determined that AD action is not appropriate.

Withdrawal of the NPRM constitutes only such action and does not preclude the FAA from further rulemaking on this issue, nor does it commit the FAA to any course of action in the future.

Comments

Support for the NPRM

The Air Line Pilots Association, International (ALPA) expressed support for the NPRM.

Request To Not Issue the Proposed AD

Delta Air Lines (Delta) requested that the proposed AD not be issued. DAL stated that replacement of the affected part as required by the proposed AD had already been done on both of the affected airplanes. Alternatively, Delta requested that the FAA allow use of the high-pressure ground connection as an alternative to the auxiliary power units because Delta's affected airplanes had been preserved in storage and could not be started if necessary to perform a required leak check. The FAA agrees with the commenter's requests, but because the FAA is withdrawing the NPRM, Delta's alternative request is no longer necessary.

FAA's Conclusions

Upon further consideration, the FAA has determined that the NPRM is unnecessary. Accordingly, the NPRM is withdrawn.

Regulatory Findings

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule. This action therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

Accordingly, the notice of proposed rulemaking (Docket No. FAA–2021–0298), which was published in the **Federal Register** on April 16, 2021 (86 FR 20091), is withdrawn.

Issued on August 19, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–18228 Filed 8–24–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0693 Project Identifier MCAI–2020–01666–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Helicopters Model AS332L2 and EC225LP helicopters. This proposed AD was prompted by a design deficiency. This proposed AD would require modifying the hoist control power supply, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 12, 2021.

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

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For EASA material that is proposed for IBR in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0693.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0693; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT:

Ronnea Derby, Aerospace Engineer, Denver ACO Branch, Compliance & Airworthiness Division, FAA, 26805 E 68th Ave., Mail Stop: Room 214, Denver, CO 80249; telephone (303) 342-1093; email Ronnea.L.Derby@faa.gov.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2021-0693; Project Identifier MCAI-2020-01666-R" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Ronnea Derby, Aerospace Engineer, Denver ACO Branch, Compliance & Airworthiness Division, FAA, 26805 E 68th Ave., Mail Stop: Room 214, Denver, CO 80249; telephone (303) 342-1093; email Ronnea.L.Derby@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.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020-0281, dated December 16, 2020 (EASA AD 2020-0281), to correct an unsafe condition for certain serial-numbered Airbus Helicopters (AH), formerly Eurocopter, Eurocopter France, Aerospatiale Model AS 332 L2 and EC 225 LP helicopters.

This proposed AD was prompted by a design deficiency involving the incorrect wiring routing of the electrical hoist installation. The affected wiring was not protected by the circuit breaker that was intended to provide electrical protection for that wiring. The FAA is proposing this AD to correct the electrical hoist installation wiring routing. See EASA AD 2020-0281 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2020-0281 requires modifying the hoist control power supply.

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2020-0281, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating

this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2020-0281 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020-0281 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2020-0281 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 EASA AD 2020-0281. Service information required by EASA AD 2020-0281 for compliance will be available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0693 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 5 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 proposed AD.

Modifying the electrical hoist control power supply would take about 4 work-hours and parts would cost about \$10, for an estimated cost of \$350 per helicopter and \$1,750 for the affected U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2021–0693; Project Identifier MCAI–2020–01666–R.

(a) Comments Due Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model AS332L2 and EC225LP helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0281, dated December 16, 2020 (EASA AD 2020–0281).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a design deficiency. The FAA is issuing this AD to

correct the electrical hoist installation wiring routing. The unsafe condition, if not addressed, could result in a short circuit of the hoist control electrical harness and subsequent hoist shear command and hoisted load loss, possibly resulting in injury to a person being lifted 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 2020–0281.

(h) Exceptions to EASA AD 2020–0281

(1) Where EASA AD 2020–0281 requires compliance within 30 days after its effective date, this AD requires compliance within 30 hours time-in-service after the effective date of this AD.

(2) This AD does not require the "Remarks" section of EASA AD 2020–0281.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2020–0281 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)(2) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov.

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

(k) Related Information

(1) For EASA AD 2020–0281, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0693.

(2) For more information about this AD, contact Ronnea Derby, Aerospace Engineer, Denver ACO Branch, Compliance & Airworthiness Division, FAA, 26805 E 68th Ave., Mail Stop: Room 214, Denver, CO 80249; telephone (303) 342–1093; email Ronnea.L.Derby@faa.gov.

Issued on August 18, 2021.

Gaetano A. Scirtorno,

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

[FR Doc. 2021–18254 Filed 8–24–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0700; Project Identifier 2019–CE–017–AD]

RIN 2120–AA64

Airworthiness Directives; Costruzioni Aeronautiche Tecnam S.P.A. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Costruzioni Aeronautiche Tecnam S.P.A. Model P2006T airplanes. This proposed AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a manufacturing defect in the nose landing gear (NLG) piston tube. This proposed AD would require replacing the NLG piston tube. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 12, 2021.

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

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- **Fax:** (202) 493–2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Costruzioni Aeronautiche Tecnam S.P.A., Via S. D'acquisto 62, 80042 Boscotrecase (NA), Italy; phone: + 39 0823 620134; fax: +

39 0823 622899; email: airworthiness@tecnam.com; website: <https://www.tecnam.com/us/support/>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329-4148.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0700; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329-4165; fax: (816) 329-4090; email: jim.rutherford@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2021-0700; Project Identifier 2019-CE-017-AD” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM

contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019-0043, dated March 6, 2019 (referred to after this as “the MCAI”), to correct an unsafe condition on Costruzioni Aeronautiche Tecnam S.P.A. Model P2006T airplanes. The MCAI states:

Failures of NLG piston tubes P/N 26-8-1408-1 were reported during ground operations. Subsequent investigation determined a deficiency in NLG piston tube manufacturing process. It was also determined that only a specific batch is affected by this defect.

This condition, if not corrected, could lead to failure of the NLG, possibly resulting in loss of control on the ground, during or after landing, with consequent damage to the aeroplane and injury to occupants.

To address this potential unsafe condition, TECNAM issued the [service bulletin] SB to provide instructions for the replacement of each affected part with a part that was manufactured by an improved process.

For the reasons described above, this [EASA] AD requires removal from service of the affected parts.

You may examine the MCAI in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0700.

Related Service Information

Costruzioni Aeronautiche Tecnam S.P.A. Service Bulletin No. SB 288-CS-Ed 1, Revision 1, dated December 22, 2017, is related to this NPRM and provides information about installing nose landing gear (NLG) piston tube kit number SB 288-1.

FAA's Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this NPRM after determining the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require replacing NLG piston tubes that are not P/N 26-8-1408-1 and marked “rev F00.”

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 59 airplanes of U.S. registry. The FAA also estimates that it would take about 4 work-hours per airplane to comply with the replacement required by this proposed AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$1,200 per airplane.

Based on these figures, the FAA estimates the cost of this proposed AD on U.S. operators to be \$90,860, or \$1,540 per airplane.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Costruzioni Aeronautiche Tecnam S.P.A.:
Docket No. FAA–2021–0700; Project Identifier 2019–CE–017–AD.

(a) Comments Due Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Costruzioni Aeronautiche Tecnam S.P.A. Model P2006T airplanes, all serial numbers, certificated in an category.

(d) Subject

Joint Aircraft System Component (JASC) Code 3220, Nose/Tail Landing Gear.

(e) Unsafe Condition

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another

country to identify and address an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a manufacturing defect in the nose landing gear (NLG) piston tube. The unsafe condition, if not addressed, could result in failure of the NLG upon or after landing.

(f) Compliance

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

(g) Required Actions

- (1) For airplanes with an NLG piston tube part number (P/N) 26–8–1408–1 installed and not marked “rev. F00”: Within 50 hours time-in-service after the effective date of this AD or within 2 months after the effective date of this AD, whichever occurs first, replace any P/N 26–8–1408–1 NLG piston tube with an improved part by installing NLG piston tube kit number SB 288–1.
- (2) As of the effective date of this AD, do not install an NLG piston tube P/N 26–8–1408–1 on any airplane unless it is marked “rev. F00.”

(h) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, 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 certification office, send it to the attention of the person identified in Related Information or email: 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 Jim Rutherford, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4165; fax: (816) 329–4090; email: jim.rutherford@faa.gov.

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2019–0043, dated March 6, 2019, for more information. You may examine the EASA AD in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0700.

(3) For service information identified in this AD, contact Costruzioni Aeronautiche Tecnam S.P.A., Via S. D’acquisto 62, 80042 Boscotrecase (NA), Italy; phone: + 39 0823 620134; fax: + 39 0823 622899; email: airworthiness@tecnam.com; website: <https://www.tecnam.com/us/support/>. You may review this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued on August 19, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–18253 Filed 8–24–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0696; Project Identifier MCAI–2021–00032–T]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This proposed AD was prompted by reports of loose or disconnected powerplant FIREX interconnection hoses. This proposed AD would require replacing certain existing FIREX hose assemblies with a newly designed FIREX hose assembly, as specified in a Transport Canada Civil Aviation (TCCA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 12, 2021.

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

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- **Fax:** 202–493–2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For TCCA material that will be incorporated by reference (IBR) in this AD, contact TCCA, Transport Canada

National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888-663-3639; email AD-CN@tc.gc.ca; internet <https://tc.canada.ca/en/aviation>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0696.

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-2021-0696; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2021-0696; Project Identifier MCAI-2021-00032-T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Siddeeq Bacchus, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7362; fax 516-794-5531; email 9-avs-nyaco-cos@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

TCCA, which is the aviation authority for Canada, has issued TCCA AD CF-2021-01, dated January 8, 2021 (TCCA AD CF-2021-01) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD-500-1A10 and BD-500-1A11 airplanes.

This proposed AD was prompted by reports of loose powerplant FIREX interconnection hoses, and in one instance a hose was found disconnected. An investigation by the manufacturer determined that if the instructions for connecting the FIREX hose are not followed properly, hoses can become loose or disconnected. The FAA is proposing this AD to address the possibility that fire extinguishing agent may not be effectively applied should a fire occur within a powerplant assembly that has a partially or completely disconnected FIREX hose, which could result in the inability to put out a fire in the engine. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

TCCA AD CF-2021-01 describes procedures for replacing certain existing FIREX hose assemblies on each

powerplant with a newly designed FIREX hose assembly with provisions for the installation of safety cables at each end, in order to prevent the hose from becoming loose or disconnected.

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

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in TCCA AD CF-2021-01 described previously, as incorporated by reference, except for any differences identified as exceptions 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 the European Union Aviation Safety Agency (EASA) to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, TCCA AD CF-2021-01 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with TCCA AD CF-2021-01 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Service information specified in TCCA AD CF-2021-01 that is required for compliance with TCCA AD CF-2021-01 will be available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0696 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 36 airplanes of U.S. registry.

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
5 work-hours × \$85 per hour = \$425	\$13,012	\$13,437	\$483,732

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Docket No. FAA-2021-0696; Project Identifier MCAI-2021-00032-T.

(a) Comments Due Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (type certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD-500-1A10 and BD-500-1A11 airplanes, certificated in any category, as identified in Transport Canada Civil Aviation (TCCA) AD CF-2021-01, dated January 8, 2021 (TCCA AD CF-2021-01).

(d) Subject

Air Transport Association (ATA) of America Code 26, Fire protection.

(e) Reason

This AD was prompted by reports of loose or disconnected powerplant FIREX interconnection hoses. The FAA is issuing this AD to address the possibility that fire extinguishing agent may not be effectively applied should a fire occur within a powerplant assembly that has a partially or completely disconnected FIREX hose, which

could result in the inability to put out a fire in the engine.

(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, TCCA AD CF-2021-01.

(h) Exceptions to TCCA AD CF-2021-01

(1) Where TCCA AD CF-2021-01 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where TCCA AD CF-2021-01 refers to "hours air time," this AD requires using "flight hours."

(i) No Reporting Requirement

Although the service information referenced in TCCA AD CF-2021-01 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

(1) For information about TCCA AD CF-2021-01, contact TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888-663-3639; email AD-CN@tc.gc.ca; internet <https://tc.canada.ca/en/aviation>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0696.

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

Issued on August 18, 2021.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-18226 Filed 8-24-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2021-0695; Project Identifier MCAI-2021-00096-R]

RIN 2120-AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Leonardo S.p.a. Model A109E helicopters. This proposed AD was prompted by reports that certain tail rotor gearbox assemblies were installed on Model A109E helicopters and those parts are not approved for installation on that helicopter model. Because those assemblies are not part of the type design for Model A109E helicopters, there are no overhaul or life limits included in the applicable maintenance manuals. This proposed AD would require replacement of each affected tail rotor gearbox assembly with a serviceable part, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The

FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by October 12, 2021.

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

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

For EASA material that is proposed for IBR in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this 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. The EASA material is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0695.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0695; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

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

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send

your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2021-0695; Project Identifier MCAI-2021-00096-R” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (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.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021-0031, dated January 22, 2021 (EASA AD 2021-0031), to correct an unsafe condition for Leonardo S.p.A., formerly Finmeccanica S.p.A., AgustaWestland S.p.A., and Agusta S.p.A., Model A109E helicopters, all serial numbers up to 11160 inclusive.

This proposed AD was prompted by reports that certain tail rotor gearbox assemblies were installed on Model A109E helicopters and those parts are not approved for installation on that helicopter model. During revisions to the Model A109E technical publications it was noted that the 90-degree tail rotor gearbox assembly, part number (P/N) 109-0440-01-115, is included in the illustrated parts catalog (IPC) for helicopters with serial numbers (S/N) up to and including S/N 11160. The IPC incorrectly identifies this part number as a replacement part for P/N 109-0440-01-119 or P/N 109-0440-01-121.

The FAA is proposing this AD to address installation of tail rotor gearbox assembly P/N 109-0440-01-115 that is not approved for installation on Model A109E helicopters. Because P/N 109-0440-01-115 is not part of the type design for Model A109E helicopters, there are no overhaul or life limits included in the applicable maintenance manuals. If a tail rotor gearbox is not properly maintained it could fail, resulting in reduced control of the helicopter. See EASA AD 2021-0031 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021-0031 requires replacement of a tail rotor gearbox assembly P/N 109-0440-01-115 with a serviceable part. EASA AD 2021-0031 also prohibits installation of tail rotor gearbox assembly P/N 109-0440-01-

115 on any Leonardo S.p.A. Model A109E helicopter.
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 helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2021-0031, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA)

ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2021-0031 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021-0031 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021-0031 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 EASA AD 2021-0031. Service information required by EASA AD 2021-0031 for compliance will be available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0695 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 70 helicopters of U.S. Registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS				
Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replacement	12 work-hours × \$85 per hour = \$1,020	\$82,500	\$83,520	\$5,846,400

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

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under

that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Leonardo S.p.a.: Docket No. FAA–2021–0695; Project Identifier MCAI–2021–00096–R.

(a) Comments Due Date

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

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model A109E helicopters, certificated in any category, with an affected part as identified in European Union Aviation Safety Agency (EASA) AD 2021–0031, dated January 22, 2021 (EASA AD 2021–0031) installed.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports that certain tail rotor gearbox assemblies were installed on Model A109E helicopters and those parts are not approved for installation on that helicopter model. Because tail rotor gearbox assembly part number (P/N) 109–0440–01–115 is not part of the type design for Model A109E helicopters, there are no overhaul or life limits included in the applicable maintenance manuals. The FAA is issuing this AD to address installation of tail rotor gearbox assembly P/N 109–0440–01–115 on Model A109E helicopters that do not have overhaul or life limits for that part. If a tail rotor gearbox is not properly maintained it could fail, resulting in reduced 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 2021–0031.

(h) Exceptions to EASA AD 2021–0031

(1) Where EASA AD 2021–0031 requires compliance in terms of flight hours, this AD requires using hours time-in-service.

(2) Where EASA AD 2021–0031 requires compliance from its effective date, this AD requires using the effective date of this AD.

(3) This AD does not require the “Remarks” section of EASA AD 2021–0031.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0031 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)(2) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov.

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

(k) Related Information

(1) For EASA AD 2021–0031, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADS@easa.europa.eu; internet www.easa.europa.eu. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0695.

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

Issued on August 18, 2021.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–18257 Filed 8–24–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 5

[Docket No. TTB–2021–0008; Notice No. 205]

RIN 1513–AC61

Proposed Addition of Singani to the Standards of Identity for Distilled Spirits

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to amend the regulations that set forth the standards of identity for distilled spirits to include Singani as a type of brandy that is a distinctive product of Bolivia. This proposal follows a joint petition submitted by the Plurinational State of Bolivia and Singani 63, Inc., and subsequent discussions with the Office of the United States Trade Representative. TTB invites comments on this proposed amendment to its regulations, including comments on its proposal to authorize a minimum bottling proof of 35 percent alcohol by volume (or 70° proof) for Singani.

DATES: Comments must be received on or before October 25, 2021.

ADDRESSES: You may electronically submit comments to TTB on this proposal, and view copies of this document, its supporting materials, and any comments TTB receives on it within Docket No. TTB–2021–0008 as posted at <https://www.regulations.gov>. A direct link to that docket is available on the TTB website at <https://www.ttb.gov/distilled-spirits/notices-of-proposed-rulemaking> under Notice No. 205. Alternatively, you may submit comments via postal mail to the Director, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005. Please see the Public Participation section of this document for further information on the comments requested regarding this proposal and on the submission, confidentiality, and public disclosure of comments.

FOR FURTHER INFORMATION CONTACT:

Trevar D. Kolodny, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; telephone 202–453–2226.

SUPPLEMENTARY INFORMATION:

Background on the Labeling of Distilled Spirits

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), codified in the United States Code at 27 U.S.C. 205(e), authorizes the Secretary of the Treasury (the Secretary) to prescribe regulations relating to the packaging, marking, branding, labeling, and size and fill of containers of alcohol beverages that will prohibit consumer deception and provide consumers with adequate information as to the identity and quality of the product. Section 105(e) of the FAA Act also generally requires bottlers and importers of alcohol beverages to obtain certificates of label approval (COLAs) prior to bottling or importing alcohol beverages for sale in interstate commerce.

TTB administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01 (Revised), dated December 10, 2013 (superseding Treasury Department Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 5 of title 27 of the Code of Federal Regulations (27 CFR part 5) sets forth the regulations implementing those provisions of section 105(e) of the FAA Act as they pertain to distilled spirits.

Certificates of Label Approval

TTB regulations at 27 CFR 5.51 prohibit the release of bottled distilled spirits from customs custody for consumption unless the person removing the distilled spirits has obtained and is in possession of a COLA covering the product. The bottles must bear labels identical to the labels appearing on the face of the certificate, or labels with changes authorized by TTB. The TTB regulations at 27 CFR 5.55 also generally prohibit the bottling or removal of distilled spirits from a distilled spirits plant unless the proprietor possesses a COLA covering the labels on the bottle.

Classes and Types of Spirits

The TTB regulations at 27 CFR 5.22 establish standards of identity for distilled spirits products and categorize these products according to various classes and types. As used in § 5.22, the term “class” refers to a general category of spirits. Currently, there are 12 different classes of distilled spirits set

out in § 5.22, such as whisky, rum, gin, and brandy. As used in § 5.22, the term “type” refers to a subcategory within a class of spirits. For example, “Cognac” and “Pisco” are types of brandy, and “Cachaça” is a type of rum.

The TTB labeling regulations at 27 CFR 5.32(a)(2) and 5.35 require that the class and type of distilled spirits appear on the product’s label. These regulations provide that the class and type must be stated in conformity with § 5.22 of the TTB regulations if defined therein. Otherwise, § 5.35 requires that the product must be designated in accordance with trade and consumer understanding thereof, or, if no such understanding exists, by a distinctive or fanciful name, and in either case (with limited exceptions), followed by a truthful and adequate statement of composition.

Classification of Singani

“Singani” is a term recognized by the Plurinational State of Bolivia (Bolivia) as a designation for an alcohol beverage product that is distilled from grape wine or grape pomace and produced in certain delimited parts of Bolivia. Under current TTB distilled spirits labeling regulations, Singani products are generally classified as brandies. Section 5.22(d) sets forth the standard of identity for brandy as follows:

Class 4; brandy. “Brandy” is an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the product, and bottled at not less than 80° proof. Brandy, or mixtures thereof, not conforming to any of the standards in paragraphs (d)(1) through (9) of this section shall be designated as “brandy”, and such designation shall be immediately followed by a truthful and adequate statement of composition.

In § 5.22, paragraphs (d)(1) through (9) categorize the specific types of brandy. As described by petitioners Singani 63, Inc. (Singani 63) and Bolivia, Singani may meet the criteria of several of these types of brandy, such as “fruit brandy” under paragraph (d)(1), or “pomace brandy” (including “grappa brandy”) under paragraph (d)(5), depending on the amount of pomace used.

In § 5.22, paragraph (d)(1) states that fruit brandy, derived from grapes, shall be designated as “grape brandy” or “brandy.” That regulation also generally requires brandies derived from grapes (other than neutral brandy, pomace brandy, marc brandy, grappa brandy, Pisco, Pisco Perú, or Pisco Chileno) that have been aged in oak barrels for less than two years to be labeled as

“immature.” The Bolivian standards submitted by petitioners contain no aging requirements, and petitioners’ submissions suggest that, unlike many grape brandies, Singani is generally not aged in wood. Accordingly, under current TTB regulations, a Singani product classified as a grape brandy under paragraph (d)(1) would need to be labeled as an immature brandy unless it was aged in oak barrels for at least two years.

According to information submitted by the petitioners, under the standards set forth by Bolivia, certain categories of Singani may have a minimum alcohol content by volume of as low as 35 percent. However, under § 5.22(d), all brandy must be bottled at not less than 80° proof, or 40 percent alcohol by volume. Thus, under TTB’s current regulations, only Singani products bottled at a minimum alcohol content by volume of 40 percent may be labeled as any of the types of brandy specifically defined under the standard of identity in § 5.22(d). A Singani product bottled at less than 40 percent alcohol by volume could be labeled as a “diluted” brandy in accordance with Ruling 75–32 of the Bureau of Alcohol, Tobacco and Firearms (ATF) (TTB’s predecessor agency), or as a distilled spirits specialty product bearing a statement of composition and fanciful name as required under § 5.35(a). Possible statements of composition for such a specialty product could include “spirits distilled from grapes” or “grape spirits.”

Singani Petitions and Letters

Petitions and Related Letters

TTB received a petition from Singani 63, a distilled spirits importer, dated November 18, 2014, proposing that TTB amend its regulations to recognize Singani as a type of brandy that is a distinctive product of Bolivia. In support of this petition, Bolivia submitted letters to TTB in December 2015 and January 2017. Singani 63 also submitted a letter to TTB in June 2017 that provided additional information related to the petition.

In its petition, Singani 63 stated that TTB’s recognition of Singani as a distinctive product would benefit consumers by informing them that the product was produced and labeled in compliance with Bolivia’s laws. It also asserted that Singani is a product that is distinct from other types of brandy. Furthermore, both Singani 63 and Bolivia indicated that Bolivia had established a legal standard for Singani as an exclusively Bolivian product.

In response to these submissions, TTB issued letters in February and October of 2017, in which TTB addressed the petitioner's request for rulemaking and identified several deficiencies in the petition and its supporting documents. For instance, TTB noted that the submitted documents lacked substantiating information regarding Bolivia's standards for the production of Singani. Accordingly, TTB did not undertake rulemaking at that time to amend its regulations as proposed in Singani 63's petition.

TTB subsequently received a joint petition from Singani 63 and Bolivia in November 2018, again proposing that TTB recognize Singani as a type of brandy that is a distinctive product of Bolivia. The 2018 joint petition contained additional information in support of its regulatory proposal, including official translations of Bolivian laws and decrees governing the production of Singani.

2020 U.S.-Bolivian Exchange of Letters on Unique Distilled Spirits

Following discussions between officials of Bolivia and the Office of the United States Trade Representative (USTR), and after consultations between USTR and TTB, the United States Trade Representative and Bolivia's Minister of Foreign Affairs exchanged letters on January 6, 2020. The exchange of letters agreed upon a procedure that could potentially lead each party to recognize as distinctive certain distilled spirits products produced in the other party's territory.

The exchange of letters provides that the United States shall endeavor to publish a Notice of Proposed Rulemaking to promulgate a regulation that would provide that Singani is a type of brandy that is a distinctive product of Bolivia. The exchange of letters further provides that if, following this proposed rule, the United States publishes a final rule announcing the promulgation of a regulation establishing Singani as a type of brandy that is a distinctive product of Bolivia, then Bolivia shall, within thirty (30) days thereafter, recognize Bourbon Whiskey and Tennessee Whiskey as distinctive products of the United States. Following such recognition, Bolivia shall prohibit the sale within Bolivia of any product as Bourbon, Bourbon Whiskey, or Tennessee Whiskey, if it has not been manufactured in the United States in accordance with the laws and regulations of the United States governing the manufacture of Bourbon Whiskey and Tennessee Whiskey. These protections also apply to products

spelled as "Bourbon Whisky" or "Tennessee Whisky."

Singani Production

The Bolivian decrees and regulations submitted with the 2018 joint petition, which are included in the rulemaking docket, establish that Bolivia defines "Singani" as a brandy product of Bolivia. Of the Bolivian decrees and regulations submitted, Bolivian Standard NB 324001 contains the most specific standards for Singani. Among other requirements, NB 324001 requires that Singani be obtained exclusively from *vitis vinifera* grapes grown in the traditional "zones of origin" at a minimum altitude of 1,600 meters above sea level. NB 324001 lists several different categories of Singani, some of which have more specific requirements, such as requiring the product to be made from Muscat of Alexandria grapes specifically. NB 324001 classifies Singani in the group "Brandies and liquors."

In a prior rulemaking, TTB has distinguished Singani from Pisco, which is a type of grape brandy manufactured in Peru or Chile in accordance with the laws and regulations of those countries. In 2013, TTB updated its labeling regulations to add Pisco as a type of brandy that is manufactured only in Peru and Chile. In regard to brandy produced in Bolivia, TTB determined that it would not recognize Pisco as a type of brandy produced in that country. See T.D. TTB-113 (78 FR 28739, May 16, 2013). TTB stated that Bolivia maintains standards for Singani but not for Pisco, and cited other evidence suggesting that Pisco and Singani are different products.

TTB Regulatory Proposal

After reviewing the petitions, the regulations on the standards of identity in 27 CFR part 5, TTB's Certificate of Label Approval (COLA) database, the exchange of letters between USTR and Bolivia's Minister of Foreign Affairs, and the relevant laws and regulations of Bolivia, TTB has determined that amending the standards of identity regulations at § 5.22 to recognize Singani as a distinctive product of Bolivia merits consideration and public comment, as invited in this notice of proposed rulemaking.

TTB believes that Singani generally meets the U.S. standard for brandy and should be classified as a type of brandy. TTB also believes that evidence suggests that the generally recognized geographical limits of the Singani-producing areas do not extend beyond the boundaries of Bolivia, and that Singani production is not associated

with any areas outside of Bolivia.

Moreover, the results of a search of TTB's COLA database did not show any approved COLAs that use the term "Singani" as the brand name or fanciful name, or as part of the brand name or fanciful name, for distilled spirits produced outside Bolivia.

Therefore, this document proposes to amend the standard of identity in § 5.22(d) by adding Singani as a type of brandy derived from grapes that is manufactured in Bolivia in compliance with the laws and regulations of Bolivia governing the manufacture of Singani for consumption in that country. If TTB recognizes Singani as a type of brandy as proposed, it would be permissible for Singani imported and sold within the United States to simply be labeled as "Singani" without the term "brandy" on the label, in the same way that products labeled with such type designations as "Cognac" or "Pisco" are not required to also bear the designation "brandy."

The other geographically distinctive types of brandy defined in § 5.22(d), Cognac and Pisco, are defined as grape brandies distinct to their respective places of origin. However, given that Singani could also meet the criteria of other types of brandies (such as pomace brandy under § 5.22(d)(5), depending on the amount of pomace used), the proposed regulatory language describes Singani as "brandy derived from grapes" rather than as a "grape brandy."

TTB notes that the Bolivian standard allows products designated as Singani to have an alcohol content ranging from 35 to 45 percent alcohol by volume, depending on the type of Singani produced. Because the Bolivian standard allows Singani to have an alcohol content as low as 35 percent alcohol by volume (or 70° proof), TTB is proposing to exempt Singani from the general requirement that brandy be bottled at not less than 80° proof (40 percent alcohol by volume) and is instead proposing a standard for Singani that would include products bottled at not less than 70° proof (35 percent alcohol by volume) in accordance with the laws and regulations of Bolivia. TTB regulations have not previously authorized bottling proofs for a type of product that are below the minimum prescribed for the product's class designation, even when a foreign standard permits a lower proof, so TTB is soliciting comment on authorizing this standard for Singani.

In addition, the regulation at § 5.22(d)(1) generally requires that brandy derived from grapes that has been stored in oak containers for less than two years must be labeled with the word "immature." However, it also lists

several types of brandy (specifically neutral brandy, pomace brandy, marc brandy, grappa brandy, Pisco, Pisco Perú, and Pisco Chileno) that are exempt from this requirement. Because the Bolivian standards for Singani contain no specific aging requirements, TTB is proposing to amend § 5.22(d)(1) to clarify that Singani is likewise exempt from the requirement that it be labeled with the word “immature.”

Effect on Currently Approved Labels

If finalized, this amendment to the TTB regulations would revoke by operation of regulation any COLA that uses the term “Singani” as a designation for a distilled spirits product that was not manufactured in Bolivia in accordance with the laws and regulations of Bolivia governing the manufacture of Singani for consumption in that country. TTB has searched its COLA database and does not believe that this rulemaking will affect any existing labels.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on this proposed rule, including on whether the proposed amendment would have an adverse impact on owners of U.S. trademarks and on the extent to which distilled spirits labeled as “Singani” are produced outside Bolivia. Although information currently before TTB suggests that all distilled spirits currently sold in the United States with “Singani” on the label are produced in Bolivia, comments on the extent of production of Singani outside Bolivia, and on whether any existing labels will be affected by this proposal, will assist TTB in determining whether Singani should be recognized as a distinctive product of Bolivia.

TTB is also soliciting comments on its proposal to authorize a minimum bottling proof of 35 percent alcohol by volume (or 70° proof) for Singani. Because Bolivian standards authorize this 70° proof minimum, TTB is proposing to authorize the same minimum for purposes of the TTB regulations, even though § 5.22(d) generally requires that brandies be bottled at not less than 80° proof.

Submitting Comments

You may submit comments on this proposal as an individual or on behalf of a business or other organization via the *Regulations.gov* website or via postal mail, as described in the **ADDRESSES** section of this document. Your comment must reference Notice

No. 205 and must be submitted or postmarked by the closing date shown in the **DATES** section of this document. You may upload or include attachments with your comment. You also may submit a comment requesting a public hearing on this proposal. The TTB Administrator reserves the right to determine whether to hold a public hearing. If TTB schedules a public hearing, it will publish a notice of the date, time, and place for the hearing in the **Federal Register**.

Confidentiality and Disclosure of Comments

All submitted comments and attachments are part of the rulemaking record and are subject to public disclosure. Do not enclose any material in your comments that you consider confidential or that is inappropriate for disclosure.

TTB will post, and you may view, copies of this document, its supporting materials, and any comments TTB receives about this proposal within the related *Regulations.gov* docket. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment. Please contact TTB's Regulations and Rulings division by email using the web form available at <https://www.ttb.gov/contact-rrd>, or by telephone at 202–453–2265, if you have any questions regarding comments on this proposal or to request copies of this document, its supporting materials, or the comments received in response.

Regulatory Analysis and Notices

Regulatory Flexibility Act

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. chapter 6), TTB certifies that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rule only amends the standards of identity for brandy at 27 CFR 5.22(d) and imposes no new reporting, recordkeeping, or other administrative requirements. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

Drafting Information

Trevor D. Kolodny of the Regulations and Rulings Division, Alcohol and

Tobacco Tax and Trade Bureau, drafted this notice of proposed rulemaking.

List of Subjects in 27 CFR Part 5

Advertising, Alcohol and alcoholic beverages, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers, and Reporting and recordkeeping requirements.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 5, Code of Federal Regulations, as follows:

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

- 1. The authority citation for part 5 continues to read as follows:

Authority: 26 U.S.C. 5301, 7805, 27 U.S.C. 205.

Subpart C—Standards of Identity for Distilled Spirits

- 2. Section 5.22 is amended by:
 - a. Revising paragraph (d) introductory text;
 - b. In paragraph (d)(1), revising the third sentence; and
 - c. Adding new paragraph (d)(10).

The revisions and addition read as follows:

§ 5.22 The standards of identity.

* * * * *

(d) *Class 4; brandy*. “Brandy” is an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the product, and bottled at not less than 80° proof except as otherwise provided in paragraph (d)(10) of this section. Brandy, or mixtures thereof, not conforming to any of the standards in paragraphs (d)(1) through (10) of this section shall be designated as “brandy”, and such designation shall be immediately followed by a truthful and adequate statement of composition.

(1) * * * Fruit brandy, derived from grapes, shall be designated as “grape brandy” or “brandy”, except that in the case of brandy (other than neutral brandy, pomace brandy, marc brandy, grappa brandy, Pisco, Pisco Perú, Pisco Chileno, or Singani) distilled from the fermented juice, mash, or wine of grapes, or the residue thereof, which has been stored in oak containers for less than 2 years, the statement of class and type shall be immediately preceded, in

the same size and kind of type, by the word “immature”. * * *

* * * * *

(10) “Singani” is brandy derived from grapes that is manufactured in Bolivia in accordance with the laws and regulations of Bolivia governing the manufacture of Singani for consumption in that country, and includes Singani bottled at not less than 70° proof in accordance with such laws and regulations.

* * * * *

Signed: July 21, 2021.

Mary G. Ryan,
Administrator.

Approved: July 23, 2021.

Timothy E. Skud,
Deputy Assistant Secretary (Tax, Trade, and
Tariff Policy).

[FR Doc. 2021-18205 Filed 8-24-21; 8:45 am]

BILLING CODE 4810-31-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2021-0344]

RIN 1625-AA00

Safety Zone; Piscataqua River Turning Basin Dredge Project, Portsmouth, NH

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish two temporary safety zones for the navigable waters of the Piscataqua River in Portsmouth Harbor. The first safety zone will be a 100-yard radius around any vessel, barge, or dredging equipment engaged in dredging operations. The second safety zone will be a 500-yard radius around any vessel, barge, or dredging equipment engaged in blasting operations and any blasting worksites. The safety zones are necessary to protect persons and vessels from hazards associated with dredging, drilling, and blasting operations for overall widening of the uppermost turning basin of the Piscataqua River. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Northern New England or a Designated Representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before September 24, 2021.

ADDRESSES: You may submit comments identified by docket number USCG-2021-0344 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Shaun Doyle, Sector Northern New England Waterways Management Division, U.S. Coast Guard; telephone 207-347-5015, email Shaun.T.Doyle@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
COTP Captain of the Port Northern New
England

II. Background, Purpose, and Legal Basis

On February 12, 2021, the U.S. Army Corps of Engineers notified the Coast Guard of plans to fund dredging operations on the uppermost turning basin of the Piscataqua River in Portsmouth Harbor. The project consists of widening the uppermost turning basin of the Piscataqua River from 800 feet to 1,200 feet to improve navigation maneuverability and safety.

The project includes dredging approximately 12–14 million cubic yards of silt, blue clay, till and weathered rock from the uppermost turning basin of the Piscataqua River in Portsmouth Harbor. The project will include mechanical dredging, drilling, and blasting operations. The extent of drilling and blasting operations will not be known until the top material has been removed and contractors can locate hard rock spots. The Captain of the Port Northern New England (COTP) has determined that potential hazards associated with dredging operations would be a safety concern for anyone within a 100-yard radius around any vessel, barge, or dredging equipment engaged in dredging operations. Additionally, the COTP has determined that potential hazards associated with the explosives to be used in this operation would be a safety concern for anyone within a 500-yard radius around any vessel, barge, or dredging equipment engaged in blasting operations and any blasting worksites. The Coast Guard is proposing this rule

to be effective, and enforceable, from October 15, 2021, through April 15, 2022. If the project is completed prior to April 15, 2022, enforcement of the safety zone will be terminated and notice given via Broadcast Notice to Mariners, Local Notice to Mariners, or both.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 100-yard radius around any vessel, barge, or dredging equipment engaged in dredging operations and within a 500-yard radius around any vessel, barge, or dredging equipment engaged in blasting operations and any blasting worksites. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish two safety zones from October 15, 2021, through April 15, 2022. The first safety zone will be a 100-yard radius around any vessel, barge, or dredging equipment actively engaged in dredging operations. The second safety zone will be a 500-yard radius around any vessel, barge, or dredging equipment engaged in blasting operations and any blasting worksites. The 500-yard safety zone will be enforced during active blasting operations and will be suspended once successful detonation has been confirmed and blasting operations have been secured. The Coast Guard will notify the public and local mariners of the 500-yard safety zone through appropriate means, which may include, but are not limited to, publication in the Local Notice to Mariners and Broadcast Notice to Mariners via VHF-FM marine channel 16 in advance of any enforcement. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a

“significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the size, location, duration, time-of-day and time-of-year of the safety zone. The safety zones will be enforced during periods of active dredging or blasting operations from October 15, 2021, through April 15, 2022. The 500-yard radius safety zone around any vessel, barge, or dredging equipment engaged in blasting operations and any blasting worksites will only be enforced when blasting operations are conducted for short durations. Once blasting operations have been secured, vessel traffic would be able to transit around the 100-yard radius safety zone around any vessel, barge, or dredging equipment actively engaged in dredging operations. Dredging vessel(s) conducting operations will accommodate necessary commerce and movement of cargo through daily coordination with U.S. Army Corps of Engineers, contractors, Portsmouth Pilots, and U.S. Coast Guard. Proper public notice of enforcement will be given through appropriate means, which may include, but are not limited to, publication in the Local Notice to Mariners and Broadcast Notice to Mariners via VHF-FM marine channel 16.

B. Impact on Small Entities

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

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

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

qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this

proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing two safety zones near the uppermost turning basin of the Piscataqua River in Portsmouth Harbor that will be enforced periodically from October 15, 2021, through April 15, 2022, that prohibits entry within a 100-yard radius around any vessel, barge, or dredging equipment engaged in dredging operations, and within a 500-yard radius around any vessel, barge, or dredging equipment engaged in blasting operations and any blasting worksites. Normally such actions are 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 preliminary 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. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking,

indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

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

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in the docket, and public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed by following that website's instructions. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive.

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 is proposing to amend 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.

■ 2. Add § 165.T01–0344 to read as follows:

§ 165.T01–0344 Safety Zone; Piscataqua River Turning Basin Dredge Project, Portsmouth, NH.

(a) *Locations.* The following areas are a safety zone: (1) *Safety zone 1.* All navigable waters of the Piscataqua River, from surface to bottom, within a 100-yard radius around any vessel, barge, or dredging equipment engaged in dredging operations.

(2) *Safety zone 2.* All navigable waters of the Piscataqua River, from surface to bottom, within a 500-yard radius around any vessel, barge, or dredging

equipment engaged in blasting operations and any blasting worksites.

(b) *Definitions.* As used in this section, *Designated Representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port Northern New England (COTP) in the enforcement of the safety zone.

(c) *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 Designated Representative via VHF–FM marine channel 16 or by contacting the Coast Guard Sector Northern New England Command Center at (207) 741–5465. 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.

(d) *Enforcement period.* This section is effective from October 15, 2021, through April 15, 2022, but will only be enforced while dredging or blasting operations are in progress. The Coast Guard will utilize Broadcast Notice to Mariners and Local Notice to Mariners to notify the public of the time and duration that these safety zones will be enforced.

Dated: August 16, 2021.

A.E. Florentino,

Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.

[FR Doc. 2021–17891 Filed 8–24–21; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0524; FRL–8808–01–R9]

Air Plan Approval; California; Eastern Kern Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Eastern Kern Air Pollution Control District (EKAPCD) portion of the California State Implementation Plan (SIP) concerning the EKAPCD's demonstration regarding

reasonably available control technology (RACT) requirements and negative declarations for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or “standards”) in the portion of the Kern County nonattainment area under the jurisdiction of EKAPCD. We are proposing action on a SIP revision under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before September 24, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0524 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4126 or by email at Law.Nicole@epa.gov.

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

Table of Contents

- I. The State's Submittal
 - A. What document did the State submit?
 - B. Are there other versions of this document?

- C. What is the purpose of the submitted document?
- D. What portion of the RACT SIP submittal is addressed in this notice?
- II. The EPA's Evaluation and Action
- A. How is the EPA evaluating the submitted document?
- B. Does the document meet the evaluation criteria?

- C. The EPA's Recommendations to Further Improve the RACT SIP
- D. Public Comment and Proposed Action
- III. Statutory and Executive Order Reviews

I. The State's Submittal

A. What document did the State submit?

Table 1 lists the document addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resource Board (CARB).

TABLE 1—SUBMITTED DOCUMENT

Local agency	Document	Adopted	Submitted
EKAPCD	Eastern Kern Air Pollution Control District Reasonably Available Control Technology (RACT) State Implementation Plan (SIP) For The 2008 Ozone National Ambient Air Quality Standards (NAAQS) ("2017 RACT SIP").	05/11/2017	08/09/2017

On February 9, 2018 the submittal for the EKAPCD 2017 RACT SIP was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this document?

There are no previous versions of the RACT SIP and negative declarations in the EKAPCD portion of the California SIP for the 2008 ozone NAAQS.

C. What is the purpose of the submitted document?

Emissions of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x) contribute to the production of ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC and NO_x emissions. Sections 182(b)(2) and (f) require that SIPs for ozone nonattainment areas classified as Moderate or above implement RACT for any source covered by a Control Techniques Guidelines (CTG) document and for any major source of VOCs or NO_x. The EKAPCD is subject to this requirement as it regulates the Eastern Kern ozone nonattainment area that was designated and classified as a Moderate nonattainment area for the 2008 8-hour ozone NAAQS at the time of submittal.¹ Therefore, the EKAPCD must, at a minimum, adopt RACT-level controls for all sources covered by a CTG document and for all major non-CTG sources of VOCs or NO_x within the ozone nonattainment area that it regulates. Any stationary source that emits or has the potential to emit at least 100 tons per year (tpy) of VOCs or NO_x

is a major stationary source in a Moderate ozone nonattainment area (CAA section 182(b)(2), (f) and 302(j)).

Section III.D of the preamble to the EPA's final rule to implement the 2008 ozone NAAQS discusses RACT requirements.² It states, in part, that RACT SIPs must contain adopted RACT regulations, certifications (where appropriate) that existing provisions are RACT, and/or negative declarations that no sources in the nonattainment area are covered by a specific CTG.³ It also provides that states must submit appropriate supporting information for their RACT submissions as described in the EPA's implementation rule for the 1997 ozone NAAQS.⁴ The EKAPCD's RACT SIP submittal ("2017 RACT SIP") and negative declarations provide EKAPCD's analyses of its compliance with the CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS.

The EPA's technical support document (TSD) has more information about EKAPCD's RACT SIP, negative declarations, and the EPA's evaluations thereof.

D. What portion of the RACT SIP submittal is addressed in this notice?

This proposal is one of three EPA actions on the EKAPCD 2017 RACT SIP submittal. The other two actions are as follows:

(1) On January 14, 2021, the EPA approved EKAPCD's negative declaration for the CTG category associated with the Oil and Natural Gas Industry (EPA-453/B-16-001). We assessed internet sites for California's Department of Conservation Geologic Energy Management Devisons (CalGEM) Well Finder, CARB's pollution mapping tool, and the California Energy Commission's

California Natural Gas Pipelines and determined there were no oil and gas operations within EKAPCD's jurisdiction covered by the Oil and Natural Gas CTG.⁵

(2) The amended rules for major source NO_x were submitted separately on May 23, 2018 and August 22, 2018. These rules and the RACT certification for major source NO_x will be addressed in a separate action.

This proposed action addresses the remainder of the 2017 RACT SIP submission. Additional details about the submission and the EPA's separate actions thereon are available in the TSD.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the submitted document?

Generally, SIP rules must require RACT for each category of sources covered by a CTG document as well as each major source of VOCs or NO_x in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). At the time of submittal, the EKAPCD regulated an ozone nonattainment area classified as Moderate for the 2008 ozone standard (40 CFR 81). Therefore, the EKAPCD rules must implement RACT.

States should also submit for SIP approval negative declarations for those source categories for which they have not adopted RACT-level regulations (because they have no sources above the CTG-recommended applicability threshold), regardless of whether such negative declarations were made for an earlier SIP.⁶ To do so, the submittal should provide reasonable assurance that no sources subject to the CTG

¹ The EPA has since reclassified the Eastern Kern ozone nonattainment area to "Serious" on July 5, 2018 (83 FR 31334) and "Severe" on June 7, 2021 (86 FR 30204).

² 80 FR 12264 (March 6, 2015).

³ Id. at 12278.

⁴ Id.; 70 FR 71612, 71652 (November 29, 2005).

⁵ Technical Support Document for EPA's Clean Air Act Rulemaking for the California State Implementation Plan Eastern Kern County Air Pollution Control District Negative Declaration for Control Techniques Guidelines for the Oil and Natural Gas Industry date August 2020 and prepared by Sina Schwenk-Mueller.

⁶ 57 FR 13498, 13512 (April 16, 1992).

requirements currently exist in the portion of the ozone nonattainment area that is regulated by the EKAPCD.

The District's analysis must demonstrate that each major source of VOCs or NO_x in the ozone nonattainment area is covered by a RACT-level rule. In addition, for each CTG source category, the County must either demonstrate that a RACT-level rule is in place or submit a negative declaration. Guidance and policy documents that we use to evaluate CAA section 182 RACT requirements include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (the NO_x Supplement), 57 FR 55620, November 25, 1992.
5. Memorandum dated May 18, 2006, from William T. Harnett, Director, Air Quality Policy Division, to Regional Air Division Directors, Subject: "RACT Qs & As—Reasonably Available Control Technology (RACT): Questions and Answers."
6. "Final Rule to Implement the 8-hour Ozone National Ambient Air Quality Standard—Phase 2," 70 FR 71612 (November 29, 2005).
7. "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements," 80 FR 12264 (March 6, 2015).

B. Does the document meet the evaluation criteria?

EKAPCD's 2017 RACT SIP provides the District's demonstration that the applicable SIP for the EKAPCD satisfies CAA section 182 RACT requirements for the 2008 8-hour ozone NAAQS. This conclusion is based on EKAPCD's analysis of SIP-approved requirements that apply to the following: (1) Source categories for which a CTG has been issued, and (2) major non-CTG stationary sources of VOC or NO_x emissions.

With respect to CTG source categories, EKAPCD analyzed in Section VI., "RACT ANALYSIS," of the 2017 RACT SIP those rules and source categories that had sources within the District subject to the CTGs. Based on our analysis, the EPA concludes that EKAPCD's analysis has demonstrated that the required rules are in place. In this rulemaking, we propose to find that EKAPCD Rules 410.3, 410.4, 410.8, 410.9, and 412 establish RACT-level controls for the sources within the following CTG categories: "Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations" (EPA-450/R-75-102), "Control of Volatile Organic Emissions from Solvent Metal Cleaning" (EPA-450/2-77-022), "Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products" (EPA-450/2-78-015), "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems" (EPA-450/2-78-051), "Control Technique Guidelines for Miscellaneous Metal and Plastic Parts Coatings" (EPA-453/R-08-003), "Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations"

(EPA-453/R-96-007), and "Control of Volatile Organic Compound Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations" (EPA-453/R-97-004). Our TSD has additional information about our evaluation of these rules.

Where there are no existing sources covered by a particular CTG document, or no major non-CTG sources of NO_x or VOC, states may, in lieu of adopting RACT requirements for those sources, adopt negative declarations certifying that there are no such sources in the relevant nonattainment area. Table 6 of the 2017 RACT SIP lists EKAPCD's negative declarations where it has no sources subject to the applicable CTGs for the 2008 8-hour ozone NAAQS. These negative declarations are listed in Table 2 below. EKAPCD concludes that it has no sources subject to the CTGs based on a review of its permit files, emission inventory, and consultation with permitting and enforcement staff.

Additionally, EKAPCD determined it had sources exceeding the 100 tpy major source threshold for NO_x and VOC. However, Table 5 of the 2017 RACT SIP indicates EKAPCD's negative declaration that there are no non-CTG major VOC sources for the 2008 8-hour ozone NAAQS. As described in more detail in our TSD, we conclude that EKAPCD properly identified all major non-CTG sources requiring RACT.

We reviewed EKAPCD's list of negative declarations in Table 6 of the 2017 RACT SIP and California Emissions Inventory data to verify the District's conclusion that it has no stationary sources subject to the CTG source categories for which it has adopted a negative declaration. We agree with the District's negative declarations in the 2017 RACT SIP and propose to approve them into the SIP.

TABLE 2—EKAPCD NEGATIVE DECLARATIONS

CTG document number and date	CTG document title
(EPA-450-2-77-008, 1977/05)	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks.
(EPA-450/2-77-025, 1977/10)	Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.
(EPA-450/2-77-026, 1977/10)	Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals.
(EPA-450/2-77-032, 1977/12)	Control of VOC Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture.
(EPA-450/2-77-033, 1977/12)	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.
(EPA-450/2-77-034, 1977/12)	Control of VOC Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances.
(EPA-450/2-77-035, 1977/12)	Control of VOC Emissions from Bulk Gasoline Plants.
(EPA-450/2-77-036, 1977/12)	Control of VOC Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks.
(EPA-450/2-77-037, 1977/12)	Control of VOC Emissions from Use of Cutback Asphalt.
(EPA-450/2-78-032, 1978/06)	Control of VOC Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling.
(EPA-450/2-78-036, 1978/06)	Control of VOC Leaks from Petroleum Refinery Equipment.
(EPA-450/2-78-029, 1978/12)	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.
(EPA-450/2-78-030, 1978/12)	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.

TABLE 2—EKAPCD NEGATIVE DECLARATIONS—Continued

CTG document number and date	CTG document title
(EPA-450/2-78-033, 1978/12)	Control of VOC Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts-Rotogravure and Flexography.
(EPA-450/2-78-047, 1978/12)	Control of VOC Emissions from Petroleum Liquid Storage in External Floating Roof Tanks.
(EPA-450/3-82-009, 1982/09)	Control of VOC Emissions from Large Petroleum Dry Cleaners.
(EPA-450/3-83-008, 1983/11)	Control of VOC Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.
(EPA-450/3-83-007, 1983/12)	Control of VOC Equipment Leaks from Natural Gas/Gasoline Processing Plants.
(EPA-450/3-83-006, 1984/03)	Control of VOC Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.
(EPA-450/2-78-029, 1978/12)	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.
(EPA-450/3-84-015, 1984/12)	Control of VOC Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.
(EPA-450/4-91-031, 1993/08)	Control of VOC Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.
(61 FR 44050 8/27/1996, 1996/08)	Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating).
(EPA-453/R-06-001, 2006/09)	Control Techniques Guidelines for Industrial Cleaning Solvents.
(EPA-453/R-06-002, 2006/09)	Control Techniques Guidelines for Offset Lithographic Printing and Letterpress Printing.
(EPA-453/R-06-003, 2006/09)	Control Techniques Guidelines for Flexible Package Printing.
(EPA-453/R-06-004, 2006/09)	Control Techniques Guidelines for Flat Wood Paneling Coatings.
(EPA-453/R-07-003, 2007/09)	Control Techniques Guidelines for Paper, Film, and Foil Coatings.
(EPA-453/R-07-005, 2007/09)	Control Techniques Guidelines for Large Appliance Coatings.
(EPA-453/R-07-005, 2007/09)	Control Techniques Guidelines for Metal Furniture Coatings.
(EPA-453/R-08-004, 2008/09)	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.
(EPA-453/R-08-005, 2008/09)	Control Techniques Guidelines for Miscellaneous Industrial Adhesives.
(EPA-453/R-08-006, 2008/09)	Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings.

C. The EPA's Recommendations to Further Improve the RACT SIP

The TSD includes recommendations for future rule improvements. These recommendations address rule stringency and clarity and update rule language.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to approve CARB's submittal of the EKAPCD 2017 RACT SIP, as reflected in Tables 3 and 4. As discussed above, the RACT SIP must document current RACT for sources covered by CTGs and for major non-CTG sources for VOC and NO_x

emissions. We have determined that the 2017 RACT SIP documents RACT for all CTG sources and non-CTG major VOC sources. For these reasons and the reasons discussed above, we are proposing to approve the District's certification that it has met RACT requirements for items reflected in Tables 3 and 4 for the 2008 8-hour ozone NAAQS as demonstrated in its 2017 RACT SIP.

TABLE 3—LIST OF CTG CATEGORIES—2008 OZONE NAAQS

EPA document No.	CTG source category	EKAPCD rule number claimed as RACT	Negative declaration submitted	EPA proposed action
EPA-450/R-75-102	Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations.	Rule 412 .....	.....	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Cans.	.....	X	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Coils.	.....	X	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Paper.	.....	X	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Fabrics.	.....	X	Approval.
EPA-450/2-77-008	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume II: Surface Coating of Automobiles, and Light-Duty Trucks.	.....	X	Approval.
EPA-450/2-77-022	Control of Volatile Organic Emissions from Solvent Metal Cleaning.	Rule 410.3 .....	.....	Approval.
EPA-450/2-77-025	Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds.	.....	X	Approval.
EPA-450/2-77-026	Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals.	.....	X	Approval. ⁷
EPA-450/2-77-032	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume III: Surface Coating of Metal Furniture.	.....	X	Approval. ⁸
EPA-450/2-77-033	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume IV: Surface Coating of Insulation of Magnet Wire.	.....	X	Approval. ⁹
EPA-450/2-77-034	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume V: Surface Coating of Large Appliances.	.....	X	Approval. ¹⁰
EPA-450/2-77-035	Control of Volatile Organic Emissions from Bulk Gasoline Plants.	.....	X	Approval. ¹¹
EPA-450/2-77-036	Control of Volatile Organic Emissions from Storage of Petroleum Liquids in Fixed-Roof Tanks.	.....	X	Approval. ¹²
EPA-450/2-77-037	Control of Volatile Organic Emissions from Use of Cutback Asphalt.	.....	X	Approval.
EPA-450/2-78-015	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products.	Rule 410.4 .....	.....	Approval.
EPA-450/2-78-029	Control of Volatile Organic Emissions from Manufacture of Synthesized Pharmaceutical Products.	.....	X	Approval.
EPA-450/2-78-030	Control of Volatile Organic Emissions from Manufacture of Pneumatic Rubber Tires.	.....	X	Approval.
EPA-450/2-78-032	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VII: Factory Surface Coating of Flat Wood Paneling.	.....	X	Approval. ¹³
EPA-450/2-78-033	Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VIII: Graphic Arts-Rotogravure and Flexography.	.....	X	Approval. ¹⁴
EPA-450/2-78-036	Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment.	.....	X	Approval. ¹⁵
EPA-450/2-78-047	Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks.	.....	X	Approval. ¹⁶
EPA-450/2-78-051	Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems.	Rule 412 .....	.....	Approval.
EPA-450/3-82-009	Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners.	.....	X	Approval. ¹⁷
EPA-450/3-83-006	Control of Volatile Organic Compound Leaks from Synthetic Organic Chemical Polymer and Resin Manufacturing Equipment.	.....	X	Approval. ¹⁸
EPA-450/3-83-007	Control of Volatile Organic Compound Equipment Leaks from Natural Gas/Gasoline Processing Plants.	.....	X	Approval. ¹⁹
EPA-450/3-83-008	Control of Volatile Organic Compound Emissions from Manufacture of High-Density Polyethylene, Polypropylene, and Polystyrene Resins.	.....	X	Approval.
EPA-450/3-84-015	Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry.	.....	X	Approval.

TABLE 3—LIST OF CTG CATEGORIES—2008 OZONE NAAQS—Continued

EPA document No.	CTG source category	EKAPCD rule number claimed as RACT	Negative declaration submitted	EPA proposed action
EPA-450/4-91-031	Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations in Synthetic Organic Chemical Manufacturing Industry.	.....	X	Approval.
EPA-453/R-06-001	Control Techniques Guidelines for Industrial Cleaning Solvents.	.....	X ²⁰	Approval.
EPA-453/R-06-002	Control Technology Guidelines for Offset Lithographic Printing and Letterpress Printing.	.....	X ²¹	Approval. ²²
EPA-453/R-06-003	Control Techniques Guidelines for Flexible Package Printing.	.....	X	Approval. ²³
EPA-453/R-06-004	Control Technique Guidelines for Flat Wood Paneling Coatings.	.....	X	Approval. ²⁴
EPA-453/R-07-003	Control Techniques Guidelines for Paper Coatings.	.....	X	Approval.
EPA-453/R-07-003	Control Techniques Guidelines for Film Coatings.	.....	X	Approval.
EPA-453/R-07-003	Control Techniques Guidelines for Foil Coatings.	.....	X	Approval.
EPA-453/R-07-004	Control Techniques Guidelines for Large Appliance Coatings.	.....	X	Approval. ²⁵
EPA-453/R-07-005	Control Techniques Guidelines for Metal Furniture Coatings.	.....	X	Approval. ²⁶
EPA-453/R-08-003	Control Technique Guidelines for Miscellaneous Metal and Plastic Parts Coatings.	Rule 410.4 .....	.....	Approval.
EPA-453/R-08-004	Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials.	.....	X	Approval.
EPA-453/R-08-005	Control Techniques Guidelines for Miscellaneous Industrial Adhesives.	.....	X	Approval.
EPA-453/R-08-006	Control Techniques Guidelines for Automobile and Light-duty Truck Assembly Coatings.	.....	X	Approval. ²⁷
EPA-453/R-96-007	Control of Volatile Organic Compound Emissions from Wood Furniture Manufacturing Operations.	Rule 410.9 .....	.....	Approval.
EPA-453/R-94-032	Alternative Control Technology Document—Surface Coating Operations at Shipbuilding and Ship Repair Facilities CTG, <i>see 61 FR-44050, 8/27/96</i>.	.....	X	Approval.
61 FR-44050-8/27/96	Control Techniques Guidelines for Shipbuilding and Ship Repair Operations (Surface Coating).	.....	X	Approval. ²⁸
EPA-453/R-97-004	Control of VOC Emissions from Coating Operations at Aerospace Manufacturing and Rework Operations.	Rule 410.8 .....	.....	Approval.
EPA-453/B-16-001	Control Techniques Guidelines for the Oil and Natural Gas Industry.	.....	X	EPA approved this negative declaration on January 14, 2021 (86 FR 3816).

⁷ The District identified Rule 412 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

⁸ The District identified Rule 410.4 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

⁹ The District identified Rule 410.4 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹⁰ The District identified Rule 410.4 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹¹ The District identified Rule 412 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹² The District identified Rule 411 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹³ The District identified Rule 410.9 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹⁴ The District identified Rule 410.7 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹⁵ The District identified Rules 414.1 and 414.5 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹⁶ The District identified Rule 411 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹⁷ The District identified Rule 410.6A for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹⁸ The District identified Rule 414.1 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

¹⁹ The District identified Rules 414.1 and 414.5 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

²⁰ For this CTG category, the district found there to be no sources greater than the CTG applicability.

²¹ For this CTG category, the district found there to be no sources greater than the CTG applicability.

²² The District identified Rule 410.7 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

²³ The District identified Rule 410.7 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

²⁴ The District identified Rule 410.9 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

²⁵ The District identified Rule 410.4 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

²⁶ The District identified Rule 410.4 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

²⁷ The District identified Rule 410.4A for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

²⁸ The District identified Rule 410.4 for this CTG category and submitted a negative declaration. In this action, we are proposing to approve the negative declaration.

TABLE 4—RACT FOR MAJOR NON-CTG VOC/NO_x SOURCES IN EKAPCD—2008 OZONE NAAQS

Category	Major non-CTG sources in District?	Covered by SIP-Approved RACT-Level EKAPCD Rules	EPA proposed action
Major (100+ tpy) non-CTG VOC sources.	None listed	N/A	Approval.
Major (100+ tpy) non-CTG NO _x sources.	Yes	No	EPA is not acting on this element in this action

We will accept comments from the public on this proposal until September 24, 2021. If finalized, this action would incorporate the approved portions of the 2017 RACT SIP and negative declarations into the SIP.

III. Statutory and Executive Order Reviews

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

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

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: August 6, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021-17239 Filed 8-24-21; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Part 540

[Docket No. 20-15]

RIN 3072-AC82

Passenger Vessel Financial Responsibility

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Maritime Commission (Commission) is issuing this NPRM to seek comment on potential regulatory changes to its passenger vessel operator financial responsibility requirements. The

Commission is proposing to define when nonperformance of transportation has occurred and to establish uniform procedures regarding how and when passengers may make claims for refunds under a passenger vessel operator's financial responsibility instrument when nonperformance occurs. This rulemaking resulted from recommendations in an Interim Report issued by the Fact Finding Officer in Commission Fact Finding Investigation No. 30: COVID-19 Impact on Cruise Industry.

DATES: Submit comments on or before October 25, 2021.

ADDRESSES: You may submit comments, identified by Docket No. 20-15, by the following methods:

- **Email:** secretary@fmc.gov. For comments, include in the subject line: "Docket No. 20-15, Comments on PVO Financial Responsibility Rulemaking." Comments should be attached to the email as a Microsoft Word or text-searchable PDF document.

Instructions: For detailed instructions on submitting comments, including requesting confidential treatment of comments, and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to the Commission's website, unless the commenter has requested confidential treatment.

Docket: For access to the docket to read background documents or comments received, go to the Commission's Electronic Reading Room at: <https://www2.fmc.gov/readingroom/proceeding/20-15/>.

FOR FURTHER INFORMATION CONTACT: Rachel E. Dickon, Secretary; Phone: (202) 523-5725; Email: secretary@fmc.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Background
- III. ANPRM Proposed Changes and Summary of Comments
 - A. Defining Nonperformance of Transportation

- B. Process for Obtaining Refunds From PVO Financial Instruments After Nonperformance of Transportation
 - 1. General
 - 2. Deadline for Submitting Refund Requests Under the Financial Instrument
 - 3. Deadline for Refund Payment Under the Financial Instrument
 - 4. Form of Refund Payment Under the Financial Instrument
 - 5. Defining Unearned Passenger Revenue (UPR)
 - 6. Publishing Information on How To Obtain Refunds
- C. Passenger Cancellations
- IV. Discussion & NPRM Proposal
 - A. Definition of Nonperformance of Transportation
 - B. Process for Obtaining Refunds From PVO Financial Instruments for Nonperformance of Transportation
 - C. Definition of Unearned Passenger Revenue (UPR)
 - D. Publishing Information on How To Obtain Refunds
- V. Public Participation
- VI. Rulemaking Analyses and Notices
- VII. Proposed Regulatory Language

I. Introduction

On October 29, 2020, the Federal Maritime Commission (Commission) issued an Advance Notice of Proposed Rulemaking¹ (ANPRM) to obtain comments on potential regulatory changes recommended in the Fact Finding 30 Interim Report on passenger vessel operator (PVO) refund policies.² The proposed changes are intended to provide a clear and consistent policy toward vessel passenger ticket refunds, from the PVOs' financial responsibility instruments filed with the Commission, in the case of nonperformance by the vessel operator. Specifically, the Commission recommended modifying regulations in 46 CFR part 540 to (1) adopt a definition of nonperformance of transportation, and (2) detail the process for obtaining refunds under the PVOs' financial responsibility instruments filed with the Commission. In response to the ANPRM, the Commission received four sets of comments from interested parties. These parties are Cruise Lines International Association (CLIA); Passenger Vessel Association (PVA); The Surety & Fidelity Association of America (SFAA); and Kacie Didier. Under this Notice of Proposed Rulemaking (NPRM), the Commission addresses the comments to the ANPRM and seeks further public comments on the proposed

modifications to its regulations in part 540.

II. Background

On November 6, 1966, Congress enacted Public Law 89-777. Section 2 of the statute (codified at 46 U.S.C. 44103) requires owners and charterers of vessels having berth or stateroom accommodations for 50 or more passengers, and embarking passengers at United States ports, to establish financial responsibility to meet any liability incurred for death or injury to passengers or other persons on voyages to or from United States ports. Section 2 is commonly known as the "Casualty" section. Section 3 of the statute (codified at 46 U.S.C. 44102) requires persons arranging, offering, advertising, or providing transportation on such vessels to establish evidence of financial responsibility to indemnify passengers for nonperformance of the transportation. Section 3 is commonly known as the "Performance" section. The Commission published implementing regulations at 46 CFR part 540 in 1967.³

Under this program, the Commission issues two types of certificates to PVOs of vessels that: (1) Have berths for 50 or more passengers; and (2) embark passengers from U.S. ports. The first type of Certificate (Performance) is issued by the Commission when a PVO provides the Commission with acceptable evidence of coverage to satisfy liability incurred for nonperformance of transportation up to the amount of unearned passenger revenue (UPR) held by the PVO or the monetary cap set in the Commission's regulation. Such coverage may be in the form of insurance, a guaranty, a surety bond, or escrow agreement (collectively referred to as financial responsibility instruments).⁴ The coverage is used to reimburse passengers when the PVO fails to perform cruises as contracted and has taken no further actions to refund passengers.⁵ The second type of Certificate (Casualty) is issued by the Commission when a PVO provides the Commission with acceptable evidence

of coverage to satisfy any liability incurred for death or injury during a voyage, as provided in the regulations and statute.

There have been few changes to the regulations in part 540 since its inception. Changes have included several increases to the monetary cap for required performance coverage under section 44102, the elimination of the self-insurance option for PVOs, some limitations on the types of entities acceptable as guarantors, and the elimination of certain sliding-scale provisions as to the amount of coverage required. Most recently, the Commission increased the cap on required performance coverage in two annual steps, from \$15 million to \$22 million in 2014, and then from \$22 million to \$30 million in 2015.⁶ Since 2015, the cap has been adjusted for inflation every two years based upon the U.S. Bureau of Labor Statistics' Consumer Price Index. The current cap is \$32 million.⁷

In March of 2020, following the arrival of COVID-19 in the U.S., the Centers for Disease Control and Prevention (CDC) issued a "No Sail Order and Suspension of Further Embarkation," (CDC No Sail Order) causing most PVOs to cease operations. As a consequence, questions arose concerning future cruises and passengers' ability to obtain refunds of monies paid for transportation disrupted by COVID-19. Fact Finding 30 was initiated on April 30, 2020, to investigate the impact of COVID-19 and identify commercial solutions to COVID-19 related issues that interfered with the operation of the cruise industry. The Fact Finding Officer issued an Interim Report on PVO Refund Policies on July 27, 2020, concluding that clearer guidance is needed in determining whether a passenger is entitled to obtain a refund if a PVO cancels a voyage, makes a significant schedule change, or significantly delays a voyage.⁸ The Fact Finding Officer proposed recommending certain regulatory changes in order to provide a clear interpretation of nonperformance of transportation, and to modify the

³ 32 FR 3986 (Mar. 11, 1967) (establishing regulations governing nonperformance coverage); 32 FR 7282 (May 16, 1967) (establishing regulations governing casualty coverage).

⁴ The Commission's regulations also permit smaller PVOs to request to substitute alternative forms of financial protection as evidence of financial responsibility. See 46 CFR 540.9(l).

⁵ In practice, passengers generally receive refunds for canceled cruises from the PVOs directly or, if the passenger paid by credit card, from the credit card issuer. Refund payments under the PVO financial responsibility instruments are rare and usually only occur if the PVO ceases operations or declares bankruptcy.

⁶ 46 CFR 540.9(j); Final Rule: Passenger Financial Responsibility Requirements for Nonperformance of Transportation, 78 FR 13268 (Feb. 27, 2013).

⁷ Notice: Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation—Cap Adjustment, 84 FR 17410 (June 24, 2019). An increase of \$1 million (from \$32 million to \$33 million), based on the 2020 Consumer Price Index, is pending as of April 1, 2021.

⁸ Fact Finding 30: Covid-19 Impact on Cruise Industry, *Interim Report: Refund Policy* (July 27, 2020).

¹ Docket No. 20-15, *Passenger Vessel Financial Responsibility*, 85 FR 65020 (October 29, 2020).

² Fact Finding Investigation No. 30: COVID-19 Impact on Cruise Industry, *Interim Report: Refund Policy*, at 11-13 (July 27, 2020) (Fact Finding 30 Interim Report or Interim Report).

appropriate provisions of the Commission's PVO regulations to make clear how passengers may obtain refunds under the PVOs' financial responsibility instruments filed with the Commission. The Commission voted on August 10, 2020, to initiate a rulemaking to implement the recommended changes. The Advance Notice of Proposed Rulemaking (ANPRM) Docket No. 20–15 Passenger Vessel Financial Responsibility was published in the **Federal Register** on October 14, 2020, seeking comments on potential regulatory changes to implement the recommendations in the Interim Report.

III. ANPRM Proposed Changes and Summary of Comments

The Fact Finding Officer proposed, among other things, that the Commission provide a clear interpretation of nonperformance of transportation and modify the appropriate provisions of the Commission's PVO regulations in part 540 to make clear how passengers may obtain refunds under the PVOs' financial instruments filed with the Commission. These recommendations were as follows:

Therefore, it is proposed that the Commission: (1) Interpret "nonperformance of transportation" to include cancelling a sailing or delaying passenger boarding by twenty-four (24) hours or more; and (2) modify the appropriate provisions of the Commission's PVO regulations to make clear how passengers may obtain refunds under the PVOs' financial instruments:

1. When a sailing is cancelled or consumer boarding is delayed by twenty-four (24) hours or more for any reason other than due to a government order or declaration in paragraph 2 below, full refunds must be paid within sixty (60) days following a passenger refund request.

2. When a sailing is cancelled or consumer boarding is delayed by twenty-four (24) hours or more due to a governmental order or declaration, full refunds must be paid within one hundred eighty (180) days following a passenger refund request. This includes all consumers who, at their own discretion, cancelled their booking within sixty (60) days prior to said governmental action and commensurate cancelled or delayed sailing.

3. If, following a declaration of a public health emergency, any consumer cancels a cruise booking of a sailing that may be affected by such emergency after the PVO's refund deadline, but the sailing is not cancelled, the PVO will provide a credit for a future cruise equal to the consumer's amount of deposit. In all other cases in which a consumer cancels and embarkation and sailing occur within the prescribed timeline, the cruise line's rules for cancellation will apply.

4. A PVO may set a reasonable deadline for a consumer entitled to a refund to request the

refund which shall not be less than 6 months after the scheduled voyage.

5. Refunds should include all fees paid to carrier by consumer to include all ancillary fees remitted to the carrier by the consumer.

6. Refunds to be given in same fashion as monies were originally remitted to the carrier. The PVO will be deemed to have made a refund payment if the deposited revenue as to a passenger requesting a refund is remitted by the PVO in the same manner as the passenger's original payment, by: (1) Mailing a check payable in immediately available funds to the passenger at an address furnished by the passenger, (2) issuing an electronic funds transfer, including wire transfer, automated clearinghouse (ACH) or other electronic means, in immediately available funds, or (3) posting of a credit to the credit card processor for the benefit of the credit card account used by passenger to make payments to the applicant. The refund will be deemed timely notwithstanding that passenger may not immediately have access to the transferred funds in its account or any credit card account due to rules and processes of any third-party services provider.

7. Nothing in this rulemaking shall be interpreted to preclude the consumer and the PVO from entering into an alternative form of compensation in full satisfaction of a required refund, such as a future cruise credit.⁹

The Fact Finding Officer also recommended the Commission mandate that: (1) PVOs provide on their websites clear instructions on how passengers may obtain refunds; and (2) PVOs submit current web addresses showing their refund instructions to the Commission for publication on the Commission's website.¹⁰

A. Defining Nonperformance of Transportation

As outlined in Section II above, 46 U.S.C. 44102 requires that PVOs file with the Commission evidence of financial responsibility to indemnify passenger for nonperformance of transportation. The Commission's regulations in 46 CFR part 540 do not expressly define what constitutes nonperformance of transportation, but the substantive provisions and required financial responsibility instrument terms indicate that it means the PVO's failure to provide transportation or other accommodations and services subject to part 540, subpart A,¹¹ in accordance

⁹ Fact Finding 30 Interim Report at 11–12.

¹⁰ *Id.* at 12.

¹¹ The scope of the transportation, accommodations, and services covered is described in the definition of "unearned passenger revenue" in § 540.2 and includes water transportation and all other accommodations, services, and facilities relating thereto, but excludes air transportation, hotel accommodations, or tour excursions. 46 CFR 540.2(i).

with the terms of the ticket contract between the PVO and passenger.¹²

As discussed in the ANPRM, the Commission sought comment on adopting a definition of nonperformance of transportation. The Commission anticipated that implementing this change would involve amending the regulations in part 540, subpart A, to include the definition and revising the language of the forms for financial responsibility instruments (surety bonds, guaranties, and escrow agreements) to reflect coverage in situations under the definition.¹³ To that end, the Commission included in the ANPRM the following draft definition:

Nonperformance of transportation means: (1) Canceling a voyage; or (2) delaying the boarding of passengers by more than twenty-four (24) hours if the passenger elects not to embark on the substitute or delayed voyage.

Summary of Comments

Passenger Vessel Association (PVA)

PVA maintains that the regulatory changes proposed in the ANPRM are outside the Commission's jurisdiction and believes that while the statutory provision at 46 U.S.C. 44102 imposes duties upon a covered PVO to file with the Commission evidence of financial responsibility to indemnify passengers for nonperformance of transport, it does not grant legal authority to the Commission to address the matter of what constitutes nonperformance. Nevertheless, PVA urges that if the Commission elects to go forward with the proposed rule, it should eliminate any reference to delayed sailing in its definition of nonperformance of transportation, and failing that, the time threshold should be a delay of at least 48 hours. PVA is concerned that the proposed definition of nonperformance could provide incentive for a PVO to begin a cruise despite potentially unsafe

¹² See 46 CFR 540.1(a) (stating that PVOs must file evidence of financial responsibility or a bond or other security for obligations under the terms of ticket contracts to indemnify passengers for nonperformance of transportation to which they would be entitled; Form FMC–132A to Subpart A of Part 540 (stating that: (1) The purpose of the bond is to ensure financial responsibility and the supplying of transportation and other services subject to Subpart A of part 540, in accordance with the ticket contract between the PVO and the passenger; and (2) the scope of the surety's liability is for refunds due under ticket contracts made by the PVO for the supplying of transportation and other services).

¹³ These forms include Form FMC–132A, Passenger Vessel Surety Bond (Performance); Form FMC–133A, Guaranty in Respect of Liability for Nonperformance, Section 3 of the Act; Appendix A, Example of Escrow Agreement for Use Under 46 CFR 540.5(b)). There is no required or optional form for insurance, which must meet the requirement in § 540.5(a).

conditions, such as bad weather, in an effort to avoid a delay being deemed as nonperformance. PVA remarks that the proposal for a 24 hour delay to constitute nonperformance appears to be based on a U.S. Department of Transportation policy regarding delays in scheduled commercial airline transportation and is not an appropriate standard to apply to a scheduled cruise.

The Surety & Fidelity Association of America (SFAA)

SFAA believes the proposed definition of nonperformance is “overly stringent and will increase the number of claims against this obligation, thereby increasing the likelihood of exposure under the surety bond.” SFAA further states that a standard of requiring refunds if boarding is delayed by 24 hours would add a significant burden to PVOs in terms of an increase in full refunds issued, as well as compliance costs to operationalize procedures to process refunds based on a 24-hour delay to the voyage. SFAA contends the 24-hour delay standard for nonperformance would increase “nuisance” claims against PVOs, which would impact how sureties underwrite the obligation. SFAA believes the proposed definition of nonperformance would cause sureties to require PVOs to have more cash on hand or larger lines of credit, and ultimately decrease the number of PVOs eligible to receive a surety bond. SFAA recommends changing the definition of nonperformance to a minimum of 72 hours.

SFAA also expresses concern over uncertainty about what is covered under the bond in response to a claim based on the new definition of nonperformance. Specifically, SFAA argues that a passenger’s unilateral cancellation should be excluded from coverage under the bond. SFAA also requests clarity as to what passenger expenses are covered as a result of PVO nonperformance.

B. Process for Obtaining Refunds From PVO Instruments for Nonperformance of Transportation

1. General

Although the Commission regulations require certain coverage and terms to be included in financial responsibility instruments, the regulations do not include uniform procedures regarding how and when passengers may make claims for refunds against the various financial responsibility instruments. The Fact Finding 30 Interim Report recommended that the Commission revise its regulations to make clear how

passengers may obtain refunds under these instruments and include specific provisions related to such claims and the timing of refund payments.¹⁴

Neither part 540 nor the financial responsibility instrument forms provide specific instructions on how or when passengers may obtain refunds under a PVO’s financial responsibility instrument. For example, the Guaranty Form (Form FMC–133A) provides that Guarantor will make refund payments to passengers when: (1) The PVO and passenger enter into settlement agreement, approved by the Guarantor; or (2) the passenger obtains a final judgment against the PVO and the PVO does not make payment within 21 days. Similarly, the suggested language for Escrow Agreements in Appendix A states that an Escrow Agent will make refund payments to passengers when either: (1) The PVO provides written instructions to the Escrow Agent to make such payment; or (2) the passenger obtains a final judgment against the PVO, the PVO does not make payment within 21 days, and the Escrow Agent receives a certified copy of the court order.

The Fact Finding 30 Interim Report recommended and the ANPRM requested comments on the following general procedure: (1) The passenger makes a request for a refund from a PVO financial responsibility instrument when nonperformance has occurred; and (2) the refund payment is made within a certain period, depending on certain conditions.¹⁵ The Commission anticipates that implementing these changes would involve amending the regulations in part 540, Subpart A and the language of the financial responsibility instruments forms to reflect the new procedure.

Summary of Comments

Passenger Vessel Association (PVA)

PVA comments that while there is a business relationship between a PVO and its financial responsibility instrument provider, no comparable relationship exists between the provider and the cruise ship passenger. PVA believes the Commission should not attempt to create or force such a relationship. Instead, should the Commission go forward with establishing a process for a passenger to claim a refund for nonperformance of transportation, it should specify that the passenger must submit the refund claim directly to the PVO. The PVO would then be responsible to submit the claim to the financial responsibility

instrument provider, if the PVO agrees that nonperformance of transportation has occurred and that satisfaction of a claim is warranted.

The Surety & Fidelity Association of America (SFAA)

SFAA “strongly believes” that the PVO should continue to serve as the primary party designated to receive and handle claims submitted by passengers. In a case of liquidation of the PVO, or if there is no response from the PVO, then claims could be submitted to the surety. SFAA maintains that sureties do not generally have the claims handling capability to process individual claims against the financial responsibility instrument. SFAA believes that implementing a system that allows a direct right of action against the surety bond without requiring a judgment will make claim handling more involved, expensive, and tedious. Further, SFAA asserts that if sureties are designated as the direct claims handling entity with an investigatory requirement under the new regulatory regime, many will likely exit the market. SFAA believes that the net effect of the proposed changes would increase the cost of a surety bond, or a lack of availability of surety bonds. SFAA recommends two alternative approaches to the proposed process:

(1) Claims be submitted directly to the Federal Maritime Commission as the obligee and beneficiary of said surety bonds, and the FMC may then submit verified requests for payment to the sureties based on its review of the claim; or

(2) Claimants be required to obtain adjudication of its claim before submitting their claims to the surety.

2. Deadline for Submitting Refund Requests Under the Financial Instrument

Commission regulations do not currently prescribe how long passengers have after a scheduled voyage to seek a refund from a PVO financial responsibility instrument. The Fact Finding 30 Interim Report recommended that the Commission specify that a PVO may set a reasonable deadline for passenger refund requests, but the deadline may not be less than six months after the scheduled voyage.¹⁶ The Commission included the following draft provision to reflect this recommendation:

A passenger must submit a request for refund no later than 180 days¹⁷ after

¹⁶ Fact Finding 30 Interim Report at 12.

¹⁷ For clarity and ease of calculation, the Commission contemplates using a deadline of 180 days rather than six months.

¹⁴ Fact Finding 30 Interim Report at 11–12.

¹⁵ Fact Finding 30 Interim Report at 11–12.

nonperformance occurs unless the ticket contract or other passenger vessel operator policy allows a longer period of time for such requests.

The Commission could include this provision in part 540 and require that the financial responsibility instrument specify the time period for passengers to file refund requests.

Summary of Comments

No comments were received which specifically address the submission of refund requests.

3. Deadline for Refund Payment Under the Financial Instrument

Commission regulations do not currently specify a time period within which passengers must receive a refund under a PVO financial responsibility instrument. The Fact Finding 30 Interim Report recommended that the Commission specify two different timeframes for payment depending on whether nonperformance was due to “a governmental order or declaration”: (1) When nonperformance is due to a governmental order or declaration, full refund payments must be made within 180 days after the passenger requests a refund; and (2) in all other cases, full refund payments must be made within 60 days after the passenger requests a refund.¹⁸ The Interim Report also recommended that a refund payment be deemed timely notwithstanding that the passenger may not immediately have access to the funds due to the rules and processes of any third party services provider.¹⁹

The Commission requested comment on prescribing a deadline for payment of refunds from financial responsibility instruments providers as a general matter. The ANPRM proposed two different timeframes for payment depending on whether nonperformance is due to a governmental order or declaration, and the ANPRM adopted the deadlines recommended in the Interim Report (180 days when there is a governmental order or declaration; 60 days in all other cases).

Summary of Comments

Passenger Vessel Association (PVA)

It is PVA’s position that the Commission’s proposed bifurcated time frame for refunds, which varies depending on the reason for the cancellation, is potentially confusing and unfair. PVA poses the question of how the regulation would be applied in the case of a governmental order to cancel sailings that applies to some

PVOs that are regulated by the Commission, but not all. PVA states that in such a case, smaller PVOs, that may not be subject to a No Sail Order but that voluntarily choose to cancel a cruise in the interest of passenger and crew health and safety, would have to provide requested refunds in a shorter time period than larger PVOs. PVA believes this is an unfair policy distinction and recommends that a period of payment of the refund be no more than 180 days after the customer’s claim is submitted, no matter the reason for the nonperformance of transportation.

Should the Commission choose to retain a specific refund process in the event of nonperformance due to a governmental order or declaration, PVA maintains that it should be “very precise” as to what triggers this process. PVA believes that, as a general rule, states, counties, and municipalities have no or very limited authority over vessel safety and navigation. PVA therefore recommends that only orders and declarations from federal agencies with “clear maritime authority” be specified as the triggering events for the refund process.

4. Form of Refund Payment Under the Financial Instrument

Commission regulations do not specify in what form refund payments must be made under PVO financial responsibility instruments.

The Fact Finding 30 Interim Report recommended the Commission specify that refund payments must be made in the same manner as the passenger’s original payment, *e.g.*, check, electronic funds transfer, or credit card chargeback.²⁰ The ANPRM requested comments on the recommendation.

Summary of Comments

No comments were received which specifically address the form of refunds. However, it is the Commission’s experience that financial instrument providers will not likely be able to provide refunds in the same manner as the passenger’s original payment. The Commission understands refunds provided by financial instruments are typically in the form of checks that are mailed to the passenger.

5. Defining Unearned Passenger Revenue

Commission regulations provide that the PVO financial responsibility instruments must provide coverage for “unearned passenger revenue,” which is defined as passenger revenue received

for water transportation and all other accommodations, services, and facilities relating thereto not yet performed; this includes port fees and taxes paid, but excludes such items as airfare, hotel accommodations, and tour excursions.²¹

The Fact Finding 30 Interim Report recommended the Commission specify that refund payments must include all fees, including ancillary fees, paid to the PVO by the passenger. The Commission requested comment on whether to expand the definition of unearned passenger revenue and the scope of the ancillary fees to be included in any revised definition. The Fact Finding 30 Interim Report discusses the following types of ancillary charges paid by passengers to PVOs prior to sailing: Gratuities, shore excursions, pre-cruise onboard purchases, port fees, and taxes. Of these, the current definition of unearned passenger revenue expressly includes port fees and taxes and excludes excursions. The Interim Report does not discuss refunds for airfare or hotel accommodation.

To facilitate comment, the Commission included the following draft definition in the ANPRM:

Unearned passenger revenue means that passenger revenue received for water transportation and all other related accommodations, services, and facilities relating thereto not yet performed; this includes port fees, taxes, and all ancillary fees remitted to the passenger vessel operator by the passenger.

Summary of Comments

Cruise Lines International Association (CLIA)

CLIA urges the Commission to clarify that “unearned passenger revenue” (UPR) should include cruise passage fare and related cruise lines goods and services amounts collected by the cruise line, such as port charges and taxes, pre-paid on-board purchases, gratuities, and shore excursions at the cruise line’s own or affiliated destinations. CLIA argues that UPR should not include deposits for airfare, non-affiliated shore excursions or other third party provider costs for which the cruise line is not still holding the passenger’s deposit or is contractually obligated to pay such deposit to a third-party provider.

CLIA maintains that if a cruise line contracts with an airline, shore hotel resort, attraction or other unaffiliated “arm’s length” third party services provider, the cruise line would be acting as an agent for the passenger in booking such accommodations or activities for the passenger’s benefit.

¹⁸ Fact Finding Interim Report at 11.

¹⁹ *Id.* at 12.

²⁰ Fact Finding 30 Interim Report at 11–12.

²¹ 46 CFR 540.2(i).

If the cruise line has not yet paid or contractually committed any passenger deposits for such items to the third-party provider, the cruise line may refund them to the passenger. However, if these funds have been paid or contractually committed to such third-party providers, the cruise line will have paid, or will have to pay, those funds to the third-party provider on behalf of the passengers. CLIA states that passengers may be entitled to seek funds directly from such third parties. CLIA believes that statutory law and current Commission regulations support its interpretation that UPR is limited to the passenger vessel transportation only and does not extend to other goods and services for which passengers may make advance payments to the cruise line. CLIA also notes that most cruise passengers are offered cancellation insurance arrangements, or other means of protecting such third-party refunds, at time of booking.

6. Publishing Information on How To Obtain Refunds

The Fact Finding 30 Interim Report recommended the Commission mandate that: (1) PVOs provide on their websites clear instructions on how passengers may obtain refunds; and (2) PVOs submit current website addresses for their refund instructions to the Commission for publication on the Commission's website.²² The ANPRM envisioned that this recommendation could be implemented by: (1) Revising the Form FMC-131, Application for Certificate of Financial Responsibility, to require PVOs to provide the uniform resource locator (URL) for their refund instructions; and (2) amending § 540.4 to require PVOs to amend their application if the URL changes. The Commission requested comment on this potential change.

C. Passenger Cancellations

In addition to recommendations related to passenger refunds in the event of nonperformance of transportation, the Fact Finding 30 Interim Report also proposed that the Commission amend its regulations to ensure PVO financial responsibility in the event passengers cancel their booking with a PVO prior to or following certain governmental orders or declarations. Specifically, the Fact Finding 30 Interim Report recommended that: (1) A passenger be entitled to a refund if they cancel their booking no more than 60 days prior to a governmental order or declaration that results in the PVO canceling the voyage or delaying boarding of passengers by

more than 24 hours; and (2) a passenger be entitled to a future cruise credit if they cancel their booking following the declaration of a public health emergency and the voyage occurs as scheduled.

The ANPRM requested comments on the recommendation regarding passenger refunds when the passenger cancels their booking, and the voyage is subsequently canceled as a result of governmental orders or declarations.

The ANPRM also requested comments on the recommendation regarding the provision of future cruise credit when the passenger cancels their booking following declaration of a public health emergency, but the voyage occurs as scheduled.

Summary of Comments

Cruise Lines International Association (CLIA)

CLIA commented on the provision of the proposed rule which entitles passengers to a full refund when the passenger themselves canceled their booking within 60 days prior to a governmental order or declaration and the commensurate cancelled or delayed sailing (so-called "lookback" refunds). It is CLIA's recommendation that the proposed rule should apply only in cases of:

(i) A declaration by the Secretary of Health and Human Services of a nationwide Public Health Emergency that

(ii) Results from events that were public knowledge prior to the passenger's cancellation.

CLIA maintains the correct standard for the type of emergency that would trigger the rulemaking is a federal nationwide "Public Health Emergency" declaration which affects most or all of the country and the cruise industry, such as the COVID-19 pandemic. CLIA also distinguishes an emergency such as the current pandemic, which was slow-developing and uncertain, from a local or regional event such as storm, which may develop quickly. Cruise line cancellations in the case of a local event give rise to a refund for passengers who were booked on the scheduled sailing, but do not lead to anticipatory passenger cancellations as much as 60 days before the sailing date. CLIA also asserts that state and local authorities have jurisdiction over only localized or regional situations that tend to be more limited in geographic scope, such as a highway obstruction that temporarily disrupts traffic to a cruise port. CLIA believes that the inclusion of emergencies that do not at some point directly require cancellation would allow subjective interpretations as to

whether the passengers were acting reasonably when they cancelled bookings due to the advent of the situation. Further, CLIA believes this would create incentives for passengers who had terminated bookings for personal reasons to try to capitalize on later cancellation rationales that had no bearing on their decision to cancel.

CLIA also believes that declarations from international organizations should not qualify as governmental declarations for this provision. CLIA contends that cruise lines are not likely to cancel U.S. sailings based on a multinational organizations' warnings unless the U.S. government also decides to issue an order. Further, even if a foreign government took action to prevent embarking passengers at U.S. ports from calling in their jurisdiction, cruise lines could change their itineraries or omit foreign calls, and this would not likely result in either cancellation of the sailing or anticipatory passenger cancellations.

Passenger Vessel Association (PVA)

PVA asks the Commission to refrain from imposing a refund policy to include a situation in which a passenger voluntarily cancels a booking following the declaration of a public health emergency, but the voyage nevertheless occurs as scheduled. PVA believes that the proposed rule would go beyond the problem of nonperformance of transportation, as in this case there is no "nonperformance of transportation" as envisioned by 46 U.S.C. 44102. PVA further poses the question of by whom is the public health emergency to be declared (whether a federal, state, or local official). PVA maintains that this type of situation is best handled in the context of the commercial relationship between the cruise operator and the customer. PVA states that while the vessel operator may wish to provide a refund or cruise credit as a matter of company policy, it should not be required to do so by the Commission.

PVA also requests the Commission to make clear that the term "public health emergency" includes only events such as the coronavirus pandemic, in which the gathering of persons on a vessel has the potential to worsen the emergency.

IV. Discussion & NPRM Proposal

A. Definition of Nonperformance

The Commission believes that adding a definition for nonperformance to 46 CFR part 540 would provide clarity to passengers, PVOs, and the participating financial institutions as to when nonperformance has occurred. The Commission has also taken into

²² Fact Finding 30 Interim Report at 12.

consideration the potential negative effects of the proposed definition of nonperformance raised by the commenters, particularly the period of time a vessel is delayed as it relates to the definition of nonperformance of transportation. SFAA proposed the definition of nonperformance to be a period of time greater than 24 hours, a minimum of 72 hours, to ensure PVOs are not inundated with claims. The Commission proposes to define nonperformance as when a passenger vessel operator cancels or delays a voyage by three or more calendar days, if the passenger elects not to embark on the delayed or a substitute voyage offered by the PVO. Adoption of the proposed definition will require corresponding changes to all financial instruments.

Due to the proposed definition of nonperformance of transportation and to ensure that passengers are indemnified for nonperformance of transportation, the Commission is proposing a change to require PVOs to report nonperformance of transportation events to the Commission semi-annually. This reporting is necessary in order for the Commission to be responsive to the public and to provide adequate monitoring and statistical information on occurrences of nonperformance. Nonperformance of transportation events occurring between January 1 and June 30 would be reported no later than July 30 of the same calendar year, and events occurring between July 1 and December 31 would be reported no later than January 31 of the following calendar year.

B. Process for Obtaining Refunds From PVO Financial Instruments for Nonperformance of Transportation

The Commission reiterates its position on the importance of a clear and consistent policy toward refunds from financial instruments in the event of nonperformance of transportation, in an effort to eliminate uncertainty on the part of passengers. The Commission therefore proposes changes to 46 CFR part 540 by adding a *Process for obtaining refunds from the financial instrument in the event of nonperformance* by a PVO. This process would apply in a situation where the PVO claims procedure provides less than 180 days for submission of claims after nonperformance of transportation, and the passenger wishes to submit a claim after the PVO's deadline for submission has passed, the passenger may still seek reimbursement from the financial instrument after providing written notification to the PVO. This

provides the passenger with up to 180 days to submit their claim, first to the PVO or, secondarily, to the financial instrument provider. If proper documentation is provided, the refund payment shall be issued within 90 days of submission of the claim to the financial instrument provider.

The Commission elected the period of 90 days for the refund payment considering PVA's comments which stated that smaller PVOs may be unfairly treated under the ANPRM language. They cited an example wherein smaller PVOs were not subject to Centers for Disease Control and Prevention's (CDC) No Sail Orders, but nonetheless they chose to voluntarily cancel planned cruises for safety reasons. In this example, smaller PVOs would be required to provide refunds in a shorter time period (60 days) relative to larger PVOs (180 days). To address this concern, the NPRM proposes a refund payment, under a PVO financial responsibility instrument, to be made within 90 days of submission of claims to the financial responsibility provider, regardless of the reason for nonperformance.

Subsequent to receiving formal comments to the ANPRM, the Commission engaged in additional discussions regarding cost and availability of PVO financial instruments with representatives of financial instrument providers. It was indicated there likely would be an abandonment of the PVO program by many of the financial instrument providers due to the possible direct interaction with passengers and the lack of a formal judgement. The NPRM proposes passengers first seek refunds from the PVO in order to minimize the direct interaction between passengers and financial instrument providers, and that the financial instrument providers would be permitted to require a formal court judgement.

The Commission is interested in receiving comments from industry stakeholders regarding the potential availability of financial instruments resulting from the proposed change to the definition of nonperformance, and on the proposed process of obtaining refunds from the financial instrument. As discussed in this NPRM, comments received in response to the ANPRM indicate a concern by some stakeholders that the proposed regulatory changes will constrain the current providers of financial instruments from continuing to provide such instruments to PVOs. Commenters have stated that surety companies would be largely unwilling to act as the direct claims handling entity in cases of alleged

nonperformance. The Commission is also aware of a concern that banks may view the new regulations as too burdensome and choose not to offer PVOs the option of an escrow account to satisfy PVOs' financial responsibility requirement. In addition, the increased claims activity of commercial providers of travel insurance during the pandemic may influence their determination whether to offer financial instruments to PVOs. Subsequent to receiving formal comments to the ANPRM, the Commission had additional discussions regarding cost and availability of PVO financial instruments with SFAA and Allianz Partners, the largest U.S. travel insurance provider. SFAA reiterated many of the comments received in response to the ANPRM including the likely abandonment of the PVO program by many, if not all, of the surety participants due to the possible direct interaction of passengers with the surety companies and the lack of a court judgement. Further discussion revealed the lack of a court judgement seemed to be the largest obstacle to continued participation. The Commission also spoke with Allianz Partners in an attempt to determine the availability and cost of insurance to fill the void left by the potential abandonment of other financial instruments. It was surprising to learn that Allianz, and likely other travel insurance providers, would have little interest in providing financial coverage to PVOs in the event of nonperformance. The lack of interest appears to be due to the hesitancy of travel insurance providers to broaden their exposure in the cruise sector due to the impact of the pandemic. The Commission seeks further comment on these and any other anticipated effects on the availability of financial instruments, should the proposed regulations take effect. The NPRM proposes that: (1) The passenger makes a request for refund from the Principal in accordance with the ticket contract. If the ticket contract refund procedure provides less than 180 days to submit a claim, the financial instrument will be available after written notification to Principal; (2) If the passenger is unable to resolve the claim within 180 days after nonperformance, as defined in 46 CFR 540.2, occurs, the passenger may submit a claim against the financial instrument as per instructions on the Commission website. The claim must include a copy of the boarding pass, proof and amount of payment, cancellation notice, and dated proof of properly filed claim against the Principal. All documentation must clearly display the vessel and voyage

with scheduled and actual date of sailing. At the discretion of the financial instrument provider a judgment may be required prior to resolving the claim; and (3) valid claims must be paid within 90 days of submission of claim to the financial instrument provider.

Additionally, the Commission decided not to propose a refund process that would apply in a situation when the passenger unilaterally cancels their cruise, which is supported by the ANPRM comments questioning whether those cancellations are nonperformance.

C. Definition of Unearned Passenger Revenue (UPR)

The Commission proposes defining Unearned Passenger Revenue as passenger revenue received for water transportation and all other accommodations, services and facilities that have not been performed by the PVO. Passenger revenue will include port fees, taxes and all ancillary fees submitted to the PVO by the passenger. CLIA recommended to modify the definition to exclude such items as airfare, non-affiliated shore excursions, or other third-party provider costs for which the PVO is no longer holding the passenger's deposit or is contractually obligated to pay such deposit to a third-party provider. In order to provide better protection to the consumer, and because PVOs have the existing relationship with the providers of ancillary services, the Commission believes PVOs should be responsible for refunding all monies collected by the PVOs for all services, and facilities not yet performed.

D. Publishing Information on How To Obtain Refunds

The Commission proposes:

(1) PVOs provide on their websites clear and precise instructions on how passengers may obtain refunds in the event of nonperformance of transportation; and

(2) PVOs shall submit an active web page address with their refund instructions for nonperformance of transportation to the Commission for publication on the Commission's website.

(3) Form FMC-131 "Application for Certificate of Financial Responsibility" will include a required field for PVOs to provide the web page address of their refund instructions for nonperformance of transportation.

The Commission seeks further comment on whether the Commission should provide an example web page with refund instructions in Part 540 and if so, what it should include.

V. Public Participation

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the docket, please include the docket number of this document in your comments.

You may submit your comments via email to the email address listed above under **ADDRESSES**. Please include the docket number associated with this notice and the subject matter in the subject line of the email. Comments should be attached to the email as a Microsoft Word or text-searchable PDF document.

How do I submit confidential business information?

The Commission will provide confidential treatment for identified confidential information to the extent allowed by law. If your comments contain confidential information, you must submit the following by email to the address listed above under **ADDRESSES**:

- A transmittal letter requesting confidential treatment that identifies the specific information in the comments for which protection is sought and demonstrates that the information is a trade secret or other confidential research, development, or commercial information.
- A confidential copy of your comments, consisting of the complete filing with a cover page marked "Confidential-Restricted," and the confidential material clearly marked on each page.
- A public version of your comments with the confidential information excluded. The public version must state "Public Version—confidential materials excluded" on the cover page and on each affected page, and must clearly indicate any information withheld.

Will the Commission consider late comments?

The Commission will consider all comments received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date.

How can I read comments submitted by other people?

You may read the comments received by the Commission at the Commission's Electronic Reading Room at the address listed above under **ADDRESSES**.

VI. Rulemaking Analyses and Notices

Regulatory Flexibility Act

Initial Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act (RFA), whenever an agency is required to publish general notice of proposed rulemaking, the agency must prepare and make available for public comments an initial regulatory flexibility analysis (IRFA) describing the impact of the proposed rule on small entities, which in this case are PVOs.²³ 5 U.S.C. 603. As discussed below in more detail, the Commission does not collect performance data from small PVOs, nor is such specific information published. Therefore, in this analysis, the Commission has used industry-wide published data as a proxy to estimate the impact of the proposed rule on both small and larger PVOs with a comparative assessment as recommended in the RFA guide of the Small Business Administration (SBA).²⁴ The Commission encourages comments on its analysis from interested parties with supporting data and information.

The requirements for preparing an IRFA of a proposed rule are set forth in 5 U.S.C. 603 and direct federal agencies to address the following topics:

Why the Commission Is Considering the Proposed Rule

The proposed rule stems from the Commission's Fact Finding Investigation No. 30: COVID-19 Impact on Cruise Industry, which concluded that clearer guidance is needed in determining whether a passenger is entitled to obtain a refund if a PVO cancels a voyage, makes a significant schedule change, or significantly delays a voyage.

Objectives and Legal Basis for the Proposed Rule

As discussed in the background section, 46 U.S.C. 44102 requires certain persons arranging, offering, advertising, or providing transportation on vessels to

²³ Under 5 U.S.C. 601, the term small entity is defined as a small business, a not-for-profit enterprise which is independently owned and operated and is not dominant in its field, or a governmental jurisdiction with a population of less than 50,000. A small business is defined as a small business concern under section 3 of the Small Business Act. The Small Business Administration interprets the meaning of business concern as a business entity organized for profit, with a place of business located in the U.S., and which operates primarily within the U.S. 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)(1).

²⁴ Office of Advocacy, U.S. Small Business Administration, *A Guide for Government Agencies How to Comply with the Regulatory Flexibility Act* (August 2017), p. 37.

establish financial responsibility for indemnification of passengers for nonperformance of transportation. The proposed rule seeks to provide a clear and consistent policy toward vessel passenger ticket refunds from the PVOs' financial responsibility instruments filed with the Commission, in the case of nonperformance by the vessel operator. The proposed rule primarily does this by defining nonperformance. The proposed rule would add a definition of nonperformance for which passengers would be entitled to a refund of their prepaid fares where voyages are canceled or delayed for three or more days and the passenger does not opt to accept an alternative voyage. Additionally, the proposed rule changes the definition of UPR to remove the language "excludes such items as airfare, hotel accommodations, and tour excursions," to include such items in the definition of UPR, if the PVO offers and collects money from the passenger for such items.

Determine and Estimate the Number of Small Entities to Which the New Rule Will Apply

As part of this analysis, 5 U.S.C. 603(b)(3) requires a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply. The SBA has established regulations to determine whether businesses qualify as small entities. 13 CFR part 121. The regulations use the *North American Industry Classification System* (NAICS) with codes and descriptions to classify businesses and measure their size by either annual receipts (gross annual revenue) or number of employees.²⁵ The calculation of total annual receipts or number of employees for the purpose of determining the size of a business includes those of the business itself plus those of its domestic and foreign affiliates.²⁶

As discussed, the proposed rule would modify the regulations in 46 CFR Subpart A of part 540 governing evidence of PVOs financial responsibility for nonperformance of transportation. The regulated businesses that the proposed rule applies to are PVOs. At present, there are a total of 43 PVOs with certificates of financial responsibility for nonperformance issued by the Commission. Pursuant to the SBA regulations in 13 CFR 121.201, PVOs fall under the classification of NAICS code 483112, *Deep Sea Passenger Transportation*, and under

this classification, businesses with a total number of 1,500 employees or less qualify as small. Accordingly, the Commission estimates that 14 out of the 43 certified PVOs (or 33 percent) qualify as small businesses under the size standard of the SBA. While there may be PVOs that report employees of less than 1,500, lines that are subsidiaries of much larger companies would not qualify as small entities for the intent of receiving regulatory relief under the RFA. See 13 CFR 121.106(b).

In terms of the economic impact on small PVOs, the proposed rule would add a definition of nonperformance for which passengers would be entitled to a refund of their prepaid fares where voyages are canceled or delayed for three or more days and the passenger does not opt to accept an alternative voyage. This new definition would potentially increase the number of claims for refunds, which in turn may affect the cost and method used by a PVO to cover the passengers' prepaid fares. In effect, under the proposed definition, PVOs that perform well and on time as scheduled would be less impacted than PVOs that perform poorly. The Commission has no data or information on the performance of the 14 small PVOs (per the specifics of the proposed definition) by which to gauge which ones would be more significantly impacted by the proposed rule, and no such information is published. The proposed rule would require that all certified PVOs semi-annually report instances of non-performance by which the Commission could make this determination in the future. Therefore, the Commission assumes that all of the 14 small PVOs would be impacted by the proposed rule by varying degrees depending on their performance and other factors affecting their performance. The Commission seeks public comments on its assumption and the economic impact of the proposed rule on small PVOs supported by performance data on the cancellation or delay of voyages, as per the proposed definition of nonperformance.

Projected Reporting, Record Keeping, and Other Compliance Requirements of the New Rule

Cost to Government

The Commission estimates the total annual cost of this proposed rule to the Federal government to be \$145,356, offset by the collection of \$64,482 in filing fees, for a net annual cost of \$80,874.

Record Keeping and File Costs to PVOs

The proposed rule would require that PVOs submit additional semi-annual reports on their instances of nonperformance. The estimated annual cost of the additional reports would be \$41,670.

Other Costs to PVOs

The definition of nonperformance under the proposed rule would likely increase instances of non-performance by PVOs and thus obligations on financial instruments filed with the Commission. The obligations on financial instruments may occur when a cruise has been delayed by more than three days or canceled and the passenger desires a refund instead of a credit on a future cruise. In turn, the change in the definition of UPR to include other items in addition to cruise fare (plus fees and taxes) offered and collected by the PVO could increase the amount of the refund and the cost to the PVO or discourage PVOs from offering such items to passengers. Prior to the proposed rule, the passenger vessel program focused on when PVOs ceased operations and canceled remaining cruises. Existing policies regarding cancellations and refunds vary by PVO. In general, most PVOs provide refunds or credits for cancelled voyages or partial refunds for voyages that are forced to end early, but it is unclear whether PVOs may provide refunds for delayed voyages.

In response to the ANPRM, the Surety and Fidelity Association of America noted that because of the likely increase of instances of nonperformance "sureties likely will require PVOs to have stronger balance sheets, specifically more cash on hand or larger lines of credit, thereby narrowing the universe of PVOs eligible to receive a surety bond guaranteeing this obligation." Also, they claimed that the required amount or value of collateral could be increased.

The increased costs to the PVOs would be from three factors. First, the increased cost of financial instruments to cover UPR because of possible increases in non-performance and issue more credits or refunds for certain delayed voyages now defined as nonperformance under this NPRM. Second, PVOs would have to refund additional purchases by passengers such as airfare and third-party excursions that were previously excluded from the definition of UPR before the proposed rule. Third, for PVOs using escrow accounts, the opportunity cost of having to hold additional cash on hand that is

²⁵ See 13 CFR subpart A—*Size Eligibility Provisions and Standards* (January 1, 2020).

²⁶ See 13 CFR 121.104 and 121.106.

unable to be deployed as capital elsewhere.

To estimate the total cost to the industry, the Commission would need to know:

- The estimated rate of nonperformance by PVOs;
- The likelihood that passengers would request refunds instead of opting for future cruise credits;
- The impact of the prior two items on the cost of financial instruments;
- Whether or not companies offering financial instruments would leave the market, or if PVOs could meet the requirements to obtain financial instruments; and
- Estimated changes to UPR by removing the exclusion of “such items as airfare, hotel accommodations, and tour excursions” from the definition of UPR, to the extent offered and collected by PVOs.

The Commission believes it has an estimate for historical rates of nonperformance. The Commission is not certain on the likelihood that consumers would request refunds

instead of receiving credits, nor the size of increase the proposed rule would have on premiums and the ability of PVOs to obtain financial instruments. The lack of data on these items makes it difficult to provide an accurate cost estimate. The Commission seeks public comments on the aforementioned items from interested parties supported by data and additional information.

The Cruise Line International Association (CLIA) publishes data on significant operational incidents that can be used to estimate past nonperformance by PVOs. Significant operational incidents are defined as delays of more than 24 hours to published itinerary, fatalities occurring to either passengers or crew, and serious injury occurring to either passengers or crew.²⁷

It is difficult to separate out all the significant operational incidents to know for certain which ones would meet the definition of nonperformance under the proposed rule. However, the total number of significant operational

incidents reported by CLIA sets an upper bound limit for how often instances of nonperformance, as defined by the proposed rule, have occurred in the past.

Between 2009 and 2019, there were 195 significant operational incidents for an average of 17.7 annually. The data for significant operational incidents is reported globally so the number of instances occurring from U.S. embarkations would be lower. To estimate the number of incidents in the U.S., the ratio of global incidents to global number of passengers was applied to the number of passengers embarking from the U.S. on an annual basis. The estimated number of annual incidents for the U.S. is 8.4.

As previously stated, this estimate serves as an upper bound of how many instances of nonperformance may occur under the proposed rule. U.S. per capita incident rates may vary from the global per capita incident rates. Additionally, CLIA reports that incidents appear to be trending downward.

Year	Significant incidents	Global passengers	U.S. embarkations	Estimated U.S. incidents
2009	21	17,800,000	8,900,000	10.5
2010	27	19,100,000	9,690,000	13.7
2011	15	20,500,000	9,840,000	7.2
2012	18	20,900,000	10,090,000	8.7
2013	21	21,300,000	9,960,000	9.8
2014	16	22,340,000	11,060,000	7.9
2015	21	26,060,000	10,920,000	8.8
2016	16	25,155,000	11,660,000	7.4
2017	13	26,716,000	12,200,000	5.9
2018	14	28,515,000	12,680,000	6.2
2019	13	29,673,000	13,790,000	6.0

Data on significant incidents compiled from CLIA's *Report on Operational Incidents 2009 to 2019*. Data on global passengers compiled from CLIA's annual reports. Data on U.S. embarkations compiled from CLIA's *Economic Contribution of the International Cruise Industry in the United States* publications.

Using significant operational incidents as a proxy for nonperformance, the next step in this analysis is to compare it to how many instances of nonperformance occur under the existing program.

Under its program, the Commission records when PVOs cease their operations. Since September 2000, 16 PVOs covered by the Commission's program have ceased operations and another company declared bankruptcy but successfully restarted operations later.²⁸ There have been 17 PVOs over the last 21 years that ceased operations for an average of 0.81 incidents per year,

where a company either declared bankruptcy or ceased operations.

Significant operational incidents occur much more frequently than incidents where PVOs cease operations or declare bankruptcy. The estimated number of significant operational incidents is 8.4 annually compared to a rate of 0.81 under the Commission's current program. Adding the average incident rate of a company ceasing operations or declaring bankruptcy to the rate of significant operation incidents would equate to a rate of 9.21 incidents per year where a PVOs financial instrument may be impacted

or a 10-fold increase from the current incident rate of nonperformance, when PVOs cease operating. However, this impact is mitigated by the fact that many PVOs on their own terms, including those determined to be small under the SBA guidelines, already provide refunds of prepaid fares to passengers in the case of voyage cancellations. The Commission seeks public comments from interested parties on the above methodology for incidents of nonperformance, other estimates of PVO nonperformance, and the impact the rate of nonperformance would have on surety bond premiums and other

²⁷ See *Report on Operational Incidents 2009 to 2019*, Cruise Line International Association, <https://cruising.org/en/news-and-research/research/2020/may/report-on-operational-incidents-2009-to-2019>.

²⁸ The PVOs that ceased operations are: Premier Cruise Operations Ltd. (Premier), New Commodore Cruise Lines Limited (New Commodore), Cape

Canaveral Cruise Lines, Inc., MP Ferryman, Inc., American Classic Voyages Company (American Classic), Royal Olympic, Regal Cruises, Ocean Club Cruise Line, Society Expeditions, Scotia Prince, Glacier Bay, Great American Rivers, RiverBarge Excursion Lines, Inc., Majestic America Line, and West Travel, Inc. d/b/a Cruise West, and French

American Lines. Most of these incidents occurred in the 2000s with only one company ceasing operations in the last decade. At least one additional company, Haimark Line Ltd, declared bankruptcy and emerged successfully from it to continue operations.

PVO financial instruments, with supporting data and information.

For these reasons, the Commission believes that the proposed rule could increase the cost of UPR coverage to PVOs by 25 percent. Based on the investigation in Fact Finding No. 30 and its own research, the Commission estimates the cost of UPR coverage to range from \$75,000 for the smallest of PVOs to around \$600,000 for the largest. The total cost of current UPR coverage is estimated to be around \$9,830,000. Assuming a 25 percent increase, the cost would rise by \$2,457,500 to a total of \$12,287,500. However, there is uncertainty about how much the cost would rise given the variance in the rate of incidents of nonperformance for each PVO. Breaking down the costs increases by size of PVOs, the total increase for small PVOs would be \$425,000 for a total cost of \$2,125,000 and for large PVOs would be \$2,032,500 for a total cost of \$10,162,500.

The removal of the language “excludes such items as airfare, hotel accommodations, and tour excursions” from the definition of unearned passenger revenue might also increase the amount of refunds to passengers (and the cost to the PVO) and the amount of UPR held by PVOs, to the extent that PVOs offered and collected money for such items. Currently, 22 companies’ UPR exceeds the \$32 million coverage cap set by the Commission and pegged to inflation and thus would be unaffected by rising UPR. For the remaining 21 companies, their UPR would likely rise causing their premiums or money held in escrow to increase. This change may disproportionately impact smaller PVOs since their UPR is below the current coverage cap. The Commission seeks comments on how the change in the definition would increase the amount of refunds to passengers and UPR for PVOs.

Alternatives for Small Entities

The RFA requires agencies to consider significant alternatives for small businesses. The Commission has demonstrated flexibility during the rulemaking process by publishing an ANPRM and taking into consideration the comments from parties impacted by the proposed rule. The Commission responded to comments about the definition of nonperformance by changing the timing element in the proposed definition of nonperformance from 24 hours to three calendar days.

Other Possible Alternatives Are Discussed

Exempt Small Entities From the Proposed Rule

Exempting small entities from the proposed rule would likely keep costs of obtaining certification the same as they are now for small entities. The commission could move forward with the definition of nonperformance and expanded UPR for entities above a specific revenue threshold. However, exempting small entities would mean the consumer protections from the proposed rule would not apply to passengers booking cruises on small PVOs. Therefore, simply exempting small entities would not meet the consumer protection objectives of the proposed rule.

Delayed Compliance of the Proposed for Small Entities

In comments in response to the ANPRM, the Commission has received feedback that there is uncertainty regarding how financial institutions will respond to the proposed rule with respect to the financial instruments they offer. In the most extreme scenario, some surety companies may leave the market entirely and certain PVOs would be forced to switch to escrow accounts or other forms of financial instruments. Delaying the compliance deadline of the proposed rule for small PVOs would allow for the market for financial instruments to adjust to the new conditions resulting from the proposed rule and potentially new financial instruments to emerge. The transition costs of the proposal would be mainly borne by large PVOs. Companies offering financial instruments would have additional time to study the impacts of the proposed rule on small entities. The Commission requests comments on whether a delay for small PVOs would be beneficial and how long of a delay to allow the market for financial instruments to adjust.

Longer Period Before Nonperformance for Small Entities

The proposed rule could be amended to allow for a longer period of delay before a cruise is defined as nonperforming. For small PVOs, the proposed rule could allow 4 or 5-day delay of scheduled departure. This would reduce the cost to small entities as they would have a lower likelihood of nonperformance. The drawback to this alternative is that it would create a two-tier structure of refund policies for consumers. One of the main objectives of the proposed rule is to provide clarity to consumers on refunds by creating a

standard policy. A separate definition of noncompliance for small entities would lessen consumer protections and go against the objectives of the proposed rule by straying from a standard refund policy.

Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

The Commission is not aware of any other federal rules that duplicate, overlap, or conflict with the proposed rule.

National Environmental Policy Act

The Commission’s regulations categorically exclude certain rulemakings from any requirement to prepare an environmental assessment or an environmental impact statement because they do not increase or decrease air, water or noise pollution or the use of fossil fuels, recyclables, or energy. 46 CFR 504.4. The NPRM discusses potential amendments to Commission’s program for certifying the financial responsibility of PVOs. This rulemaking thus falls within the categorical exclusion for “[c]ertification of financial responsibility of passenger vessels” under 46 CFR 504.4(a)(2). Therefore, no environmental assessment or environmental impact statement is required.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) (PRA) requires an agency to seek and receive approval from the Office of Management and Budget (OMB) before collecting information from the public. 44 U.S.C. 3507. The agency must submit collections of information in proposed rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11.

The information collection requirements associated with the Application for Certificate of Financial Responsibility filing requirements in part 540 are currently authorized under OMB Control Number 3072–0012. In compliance with the PRA, the Commission has submitted the proposed revised information collection to the Office of Management and Budget and is requesting comment on the proposed revision.

Title: 46 CFR part 540—Application for Certificate of Financial Responsibility.

OMB Control Number: 3072–0012.

Abstract: 46 U.S.C. 44102, 44103 and 46 CFR part 540 require passenger vessel operators to file unearned passenger revenue reports confidentially with the Commission.

Current Action: The proposed rule would amend (1) the Application for Certificate of Financial Responsibility filing requirements adding the website and (2) unearned passenger revenue reports by PVOs adding nonperformance of transportation occurrences. Currently, part 540 requires that passenger vessel operators file unearned passenger revenue only, on a semiannual basis.

Type of Request: Revision of a previously approved collection.

Needs and Uses: The Commission issues certificates (Performance and Casualty) to PVOs for the Indemnification of Passengers for Nonperformance of Transportation and Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons under Public Law 89-777 (codified as 46 U.S.C. 44102 and 44103).

Frequency: Filings are submitted to the Commission on a semiannual basis.

Type of Respondents: Passenger vessel operators or their duly appointed agents are required to file applications and unearned passenger revenue reports with the Commission.

Number of Annual Respondents: The Commission does not anticipate that the proposed revisions would affect the number of respondents. As a general matter, however, the number of respondents has decreased since the last revision to the information collection. The Commission estimates an annual respondent universe of 48 passenger vessel operators.

Estimated Time per Response: The Commission does not anticipate that the proposed revisions would affect the estimated time per response, which would continue to be 8 person-hours for reporting and recordkeeping requirements contained in the regulations and for completing Form-131.

Total Annual Burden: The Commission does not anticipate that the proposed revisions would affect the number of applications or unearned passenger revenue reports filed, however there will be an increase in the burden associated with each filing and would in fact affect the total annual burden. Due to the increase in the amount of information being collected since the last revision, the Commission expects that the total annual burden will increase. The Commission estimates the total person-hour burden at 2,087 person-hours.

Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the functions of the

Commission, including whether the information will have practical utility;

- Whether the Commission's estimate for the burden of the information collection is accurate;

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

- Ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Please submit any comments, identified by the docket number in the heading of this document, by the methods described in the **ADDRESSES** section of this document.

Executive Order 12988 (Civil Justice Reform)

The Commission will ensure that any proposed or final rule issued in this proceeding meets the applicable standards in E.O. 12988 titled, "Civil Justice Reform," to minimize litigation, eliminate ambiguity, and reduce burden.

Regulation Identifier Number

The Commission assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda, available at <http://www.reginfo.gov/public/do/eAgendaMain>.

VII. Proposed Regulatory Language

List of Subjects in 46 CFR Part 540

Insurance, Maritime carriers, Penalties, Reporting and recordkeeping requirements, Surety bonds.

For the reasons stated in the preamble, the Federal Maritime Commission proposes to amend part 540 of Title 46 Code of Federal Regulations as follows:

PART 540—PASSENGER FINANCIAL RESPONSIBILITY

■ 1. The authority citation for part 540 continues to read as follows:

Authority: 5 U.S.C. 552, 553; 31 U.S.C. 9701; 46 U.S.C. 305, 44101–44106.

■ 2. Amend § 540.2 by revising paragraph (i) and adding paragraph (m) to read as follows:

§ 540.2 Definitions.

* * * * *

(i) *Unearned Passenger Revenue* means that passenger revenue received for water transportation and all other accommodations, services, and facilities that have not been performed by the PVO. Passenger revenue includes port fees, taxes, and all ancillary fees remitted to the PVO by the passenger.

* * * * *

(m) *Nonperformance of transportation* means cancelling or delaying a voyage by three (3) or more calendar days, if the passenger elects not to embark on the delayed voyage or a substitute voyage offered by the passenger vessel operator.

■ 3. Amend § 540.9 by revising paragraphs (f), (h), and (i) to read as follows:

§ 540.9 Miscellaneous.

* * * * *

(f) *Process for obtaining refunds from the financial instrument in the event of nonperformance.* (1) The passenger must make a written request for a refund from the PVO in accordance with the respective PVO's claims procedures. If the PVO claims procedure provides less than 180 days for submission of claims after nonperformance of transportation, the passenger may seek reimbursement from the financial instrument provider after providing written notification to the PVO.

(2) In the event the passenger is unable to resolve the claim within 180 days after nonperformance of transportation occurs or if the claim is denied by the PVO, the passenger may submit a claim against the financial instrument as per instructions on the Commission website. The claim must include a copy of the boarding pass, proof and amount of payment, the cancellation or delay notice, and dated proof of properly filed claim against the PVO or written notification as required in paragraph (1) above. All documentation must clearly display the vessel and voyage with the scheduled and actual date of sailing.

* * * * *

(h) Every person who has been issued a Certificate (Performance) must submit to the Commission a semi-annual statement of any changes with respect to the information contained in the application or documents submitted in support thereof or a statement that no changes have occurred. Negative statements are required to indicate no change. These statements must cover the 6-month period of January through June and July through December and include a statement of the highest unearned passenger vessel revenue accrued for each month in the 6-month reporting period as well as any

instances of nonperformance of transportation. Such statements will be due within 30 days after the close of every such 6-month period. The reports required by this paragraph shall be submitted to the Bureau of Certification and Licensing at its office in Washington by certified mail, courier service, or electronic submission.

(i) *Information on How to Obtain Refunds.* (1) PVOs shall provide on their websites clear instructions on how passengers may obtain refunds in the event of nonperformance of transportation; and

(2) PVOs shall submit an active web page address with their refund instructions for nonperformance of transportation to the Commission for publication on the Commission's website.

(3) Form FMC-131 "Application for Certificate of Financial Responsibility" will include a required field for PVOs to provide the web page address of their refund instructions for nonperformance of transportation.

* * * * *

■ 4. In subpart A of Part 540, revise Form FMC-132A to read follows:

Form FMC-132A to Subpart A of Part 540

FORM FMC-132A

FEDERAL MARITIME COMMISSION

*Passenger Vessel Surety Bond
(Performance)*

Surety Co. Bond No. _____

FMC Certificate No. _____

Know all persons by these presents, that we ____ (Name of applicant), of ____ (City), ____ (State and country), as Principal (hereinafter called Principal), and ____ (Name of Surety), a company created and existing under the laws of ____ (State and country) and authorized to do business in the United States as Surety (hereinafter called Surety) are held and firmly bound unto the United States of America in the penal sum of ____, for which payment, well and truly to be made, we bind ourselves and our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents. Whereas the Principal intends to become a holder of a Certificate (Performance) pursuant to the provisions of 46 CFR part 540, subpart A, and has elected to file with the Federal Maritime Commission (Commission) such a bond to insure financial responsibility and the supplying transportation and other services subject to 46 CFR part 540, subpart A.

Whereas this bond is written to assure compliance by the Principal as an authorized holder of a Certificate (Performance) pursuant to subpart A of part 540 of title 46, Code of Federal Regulations, and shall inure to the benefit of any and all passengers to whom the Principal may be held legally liable for any of the damages herein described. Now, therefore, the condition of this obligation is such that if the Principal shall pay or cause to be paid to passengers any sum or sums for which the Principal may be held legally liable by reason of the Principal's failure faithfully to provide such transportation and other accommodations and services 46 CFR 540, subpart A made by the Principal and the passenger while this bond is in effect for the supplying of transportation and other services pursuant to and in accordance with the provisions of subpart A of part 540 of title 46, Code of Federal Regulations, then this obligation shall be void, otherwise, to remain in full force and effect. Whereas this bond is written to assure compliance by the Principal as an authorized holder of a Certificate (Performance) pursuant to 46 CFR part 540, subpart A, and shall inure to the benefit of any and all passengers to whom the Principal may be held legally liable for any of the damages herein described. Now, Therefore, the condition of this obligation is that the penalty amount of this bond shall be available to pay damages made pursuant to passenger claims, if:

(1) The passenger makes a request for refund from the Principal in accordance with the ticket contract. If, the ticket contract refund procedure provides less than 180 days, this bond shall be available after written notification to Principal.

(2) If the passenger is unable to resolve the claim within 180 days after nonperformance, as defined in 46 CFR 540.2, occurs, the passenger may submit a claim against the bond as per instructions on the Commission website. The claim must include a copy of the boarding pass, proof and amount of payment, cancellation notice, and dated proof of properly filed claim against the Principal. All documentation must clearly display the vessel and voyage with scheduled and actual date of sailing. And, Surety reserves the discretion to require a judgement prior to resolving the claim.

(3) Valid claims must be paid within 90 days of submission to the Surety.

The liability of the Surety with respect to any passenger shall not exceed the passage price paid by or on behalf of such passenger. The liability of the Surety shall not be discharged by

any payment or succession of payments hereunder, unless and until such payment or payments shall amount in the aggregate to the penalty of the bond, but in no event shall the Surety's obligation hereunder exceed the amount of said penalty. The Surety agrees to furnish written notice to the Federal Maritime Commission forthwith of all suits filed, judgments rendered, and payments made by said Surety under this bond.

This bond is effective the ____ day of ____, 20 __, 12:01 a.m., standard time at the address of the Principal as stated herein and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice sent by certified mail, courier service, or other electronic means such as email and fax to the other and to the Federal Maritime Commission at its office in Washington, DC, such termination to become effective thirty (30) days after actual receipt of said notice by the Commission, except that no such termination shall become effective while a voyage is in progress. The Surety shall not be liable hereunder for any refunds due under ticket contracts made by the Principal for the supplying of transportation and other services after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for refunds arising from ticket contracts made by the Principal for the supplying of transportation and other services prior to the date such termination becomes effective.

The underwriting Surety will promptly notify the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, DC 20573, of any claim(s) or disbursements against this bond.

In witness whereof, the said Principal and Surety have executed this instrument on ____ day of ____, 20 __.

Principal

Name _____

By _____

(Signature and title)

Witness _____

Surety

[SEAL]

Name _____

By _____

(Signature and title)

Witness _____

Only corporations or associations of individual insurers may qualify to act as Surety, and they must establish to the satisfaction of the Federal Maritime Commission legal authority to assume

the obligations of Surety and financial ability to discharge them.

■ 5. In subpart A of Part 540, revise Form FMC-133A to read follows:

Form FMC-133A to Subpart A of Part 540

FORM FMC-133A

FEDERAL MARITIME COMMISSION

Guaranty in Respect of Liability for Nonperformance

Guaranty No. _____

FMC Certificate No. _____

1. Whereas ____ (Name of applicant) (Hereinafter referred to as the "Applicant") is the Owner or Charterer of the passenger Vessel(s) specified in the annexed Schedule ("the Vessels"), which are or may become engaged in voyages to or from United States ports, and the Applicant desires to establish its financial responsibility in accordance with 46 CFR part 540, subpart A, provided that the Federal Maritime Commission ("FMC") shall have accepted, as sufficient for that purpose, the Applicant's application, supported by this Guaranty, and provided that FMC shall issue to the Applicant a Certificate (Performance) ("Certificate"), the undersigned Guarantor hereby guarantees to discharge the Applicant's legal liability to indemnify the passengers of the Vessels for nonperformance of transportation within the meaning of 46 CFR part 540.2, in the event that:

(1) The passenger makes a request for refund from the Principal in accordance with the ticket contract. If, the ticket contract refund procedure provides less than 180 days, this Guaranty shall be available after written notification to Principal.

(2) If the passenger is unable to resolve the claim within 180 days after nonperformance, as defined in 46 CFR 540.2, occurs, the passenger may submit a claim against the Guaranty as per instructions on the Commission website. The claim must include a copy of the boarding pass, proof and amount of payment, cancellation notice, and dated proof of properly filed claim against the Principal. All documentation must clearly display the vessel and voyage with scheduled and actual date of sailing. And, Guarantor reserves the discretion to require a judgement prior to resolving the claim.

(3) Valid claims must be paid within 90 days of submission to the Guarantor.

2. The Guarantor's liability under this Guaranty in respect to any passenger shall not exceed the amount paid by such passenger; and the aggregate amount of the Guarantor's liability

under this Guaranty shall not exceed \$ ____.

3. The Guarantor's liability under this Guaranty shall attach only in respect of events giving rise to a cause of action against the Applicant, in respect of any of the Vessels, for nonperformance of transportation within the meaning of 46 CFR 540.2, occurring after the Certificate has been granted to the Applicant, and before the expiration date of this Guaranty, which shall be the earlier of the following dates:

(a) The date whereon the Certificate is withdrawn, or for any reason becomes invalid or ineffective; or

(b) The date 30 days after the date of receipt by FMC of notice in writing delivered by certified mail, courier service or other electronic means such as email and fax, that the Guarantor has elected to terminate this Guaranty except that: (i) If, on the date which would otherwise have been the expiration date under the foregoing provisions (a) or (b) of this Clause 3, any of the Vessels is on a voyage whereon passengers have been embarked at a United States port, then the expiration date of this Guaranty shall, in respect of such Vessel, be postponed to the date on which the last passenger on such voyage shall have finally disembarked; and (ii) Such termination shall not affect the liability of the Guarantor for refunds arising from ticket contracts made by the Applicant for the supplying of transportation and other services prior to the date such termination becomes effective.

4. If, during the currency of this Guaranty, the Applicant requests that a vessel owned or operated by the Applicant, and not specified in the annexed Schedule, should become subject to this Guaranty, and if the Guarantor accedes to such request and so notifies FMC in writing or other electronic means such as email and fax, then, provided that within 30 days of receipt of such notice, FMC shall have granted a Certificate, such Vessel shall thereupon be deemed to be one of the Vessels included in the said Schedule and subject to this Guaranty.

5. The Guarantor hereby designates ____, with offices at ____, as the Guarantor's legal agent for service of process for the purposes of the Rules of the Federal Maritime Commission, in accordance with 46 CFR part 540, subpart A

(Place and Date of Execution)

(Type Name of Guarantor)

(Type Address of Guarantor)

By

(Signature and Title)

Schedule of Vessels Referred to in Clause 1

Vessels Added to This Schedule in Accordance With Clause 4

■ 6. In Subpart A of Part 540, revise Appendix A to Subpart A of Part 540—Example of Escrow Agreement for Use Under 46 CFR 540.5(b) to read as follows:

Appendix A to Subpart A of Part 540—Example of Escrow Agreement for Use Under 46 CFR 540.5(b)

Escrow Agreement

This Escrow Agreement, made as of this ____ day of (month & year), by and between (Customer), a corporation/company having a place of business at ("Customer") ____ and (Banking Institution name & address) a banking corporation, having a place of business at ("Escrow Agent").

Witnesseth:

Whereas, Customer wishes to establish an escrow account in order to provide for the indemnification of passengers in the event of non-performance of water transportation to which such passengers would be entitled, and to establish Customer's financial responsibility therefore; and

Whereas, Escrow Agent wishes to act as Escrow Agent of the escrow account established hereunder;

Now, Therefore, in consideration of the premises and covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Customer has established on (month, & year) (the "Commencement Date") an escrow account with the Escrow Agent which escrow account shall hereafter be governed by the terms of this Agreement (the "Escrow Account"). Escrow Agent shall maintain the Escrow Account in its name, in its capacity as Escrow Agent.

2. Customer will determine, as of the date prior to the Commencement Date, the amount of unearned passenger revenue, including any funds to be transferred from any predecessor Escrow Agent. Escrow Agent shall have no duty to calculate the amount of unearned passenger revenue. Unearned Passenger Revenues are defined as that passenger revenue received for water transportation and all other accommodations, services and facilities relating thereto not yet performed. 46 CFR 540.2(i).

3. Customer will deposit on the Commencement Date into the Escrow Account cash in an amount equal to the amount of Unearned Passenger Revenue determined under Paragraph 2 above plus a cash amount ("the Fixed Amount") equal to (10 percent of the Customer's highest Unearned Passenger Revenue for the prior two fiscal years. For periods on or after (year of agreement (2009)), the Fixed Amount shall be determined by the Commission on an

annual basis, in accordance with 46 CFR part 540.

4. Customer acknowledges and agrees that until such time as a cruise has been completed and Customer has taken the actions described herein, Customer shall not be entitled, nor shall it have any interest in any funds deposited with Escrow Agent to the extent such funds represent Unearned Passenger Revenue.

5. Customer may, at any time, deposit additional funds consisting exclusively of Unearned Passenger Revenue and the Fixed Amount, into the Escrow Account and Escrow Agent shall accept all such funds for deposit and shall manage all such funds pursuant to the terms of this Agreement.

6. After the establishment of the Escrow Account, as provided in Paragraph 1, Customer shall on a weekly basis on each (identify day of week), or if Customer or Escrow Agent is not open for business on (identify day of week) then on the next business day that Customer and Escrow Agent are open for business recompute the amount of Unearned Passenger Revenue as of the close of business on the preceding business day (hereinafter referred to as the "Determination Date") and deliver a Recomputation Certificate to Escrow Agent on such date. In each such weekly recomputation Customer shall calculate the amount by which Unearned Passenger Revenue has decreased due to (i) the cancellation of reservations and the corresponding refund of monies from Customer to the persons or entities canceling such reservations; (ii) the amount which Customer has earned as revenue as a result of any cancellation fee charged upon the cancellation of any reservations; (iii) the amount which Customer has earned due to the completion of cruises; and (iv) the amount by which Unearned Passenger Revenue has increased due to receipts from passengers for future water transportation and all other accommodations, services and facilities relating thereto and not yet performed.

The amount of Unearned Passenger Revenue as recomputed shall be compared with the amount of Unearned Passenger Revenue for the immediately preceding period to determine whether there has been a net increase or decrease in Unearned Passenger Revenue. If the balance of the Escrow Account as of the Determination Date exceeds the sum of the amount of Unearned Passenger Revenue, as recomputed, plus the Fixed Amount then applicable, then Escrow Agent shall make any excess funds in the Escrow Account available to Customer. If the balance in the Escrow Account as of the Determination Date is less than the sum of the amount of Unearned Passenger Revenue, as recomputed, plus an amount equal to the Fixed Amount, Customer shall deposit an amount equal to such deficiency with the Escrow Agent. Such deposit shall be made in immediately available funds via wire transfer or by direct transfer from the Customer's U.S. Bank checking account before the close of business on the next business day following the day on which the Recomputation Certificate is received by Escrow Agent. The Escrow Agent shall promptly notify the

Commission within two business days any time a deposit required by a Recomputation Certificate delivered to the Escrow Agent is not timely made.

7. Customer shall furnish a Recomputation Certificate, in substantially the form attached hereto as Annex 1, to the Federal Maritime Commission (the "Commission") and to the Escrow Agent setting forth the weekly recomputation of Unearned Passenger Revenue required by the terms of Paragraph 6 above. Customer shall mail or fax to the Commission and deliver to the Escrow Agent the required Recomputation Certificate before the close of business on the business day on which Customer recomputes the amount of Unearned Passenger Revenue.

Notwithstanding any other provision herein to the contrary, Escrow Agent shall not make any funds available to Customer out of the Escrow Account because of a decrease in the amount of Unearned Passenger Revenue or otherwise, until such time as Escrow Agent receives the above described Recomputation Certificate from Customer, which Recomputation Certificate shall include the Customer's verification certification in the form attached hereto as Annex 1. The copies of each Recomputation Certificate to be furnished to the Commission shall be mailed to the Commission at the address provided in Paragraph 25 herein. If copies are not mailed to the Commission, faxed or emailed copies shall be treated with the same legal effect as if an original signature was furnished. No repayment of the Fixed Amount may be made except upon approval of the Commission.

Within fifteen (15) days after the end of each calendar month, Escrow Agent shall provide to Customer and to the Commission at the addresses provided in Paragraph 25 below, a comprehensive statement of the Escrow Account. Such statement shall provide a list of assets in the Escrow Account, the balance thereof as of the beginning and end of the month together with the original cost and current market value thereof, and shall detail all transactions that took place with respect to the assets and investments in the Escrow Account during the preceding month.

8. At the end of each quarter of Customer's fiscal year, Customer shall cause the independent auditors then acting for it to conduct an examination in accordance with generally accepted auditing standards with respect to the weekly Recomputation Certificates furnished by Customer of the Unearned Passenger Revenues and the amounts to be deposited in the Escrow Account and to express their opinion within forty-five (45) days after the end of such quarter as to whether the calculations at the end of each fiscal quarter are in accordance with the provisions of Paragraph 6 of this Agreement. The determination of Unearned Passenger Revenue of such independent auditors shall have control over any computation of Unearned Passenger Revenue by Customer in the event of any difference between such determinations. To the extent that the actual amount of the Escrow Account is less than the amount determined by such independent auditors to be required to be on deposit in the Escrow Account, Customer

shall immediately deposit an amount of cash into the Escrow Account sufficient to cause the balance of the Escrow Account to equal the amount determined to be so required. Such deposit shall be completed no later than the business day after receipt by the Escrow Agent of the auditor's opinion containing the amount of such deficiency.

The opinion of such independent auditors shall be furnished by such auditors directly to Customer, to the Commission and to the Escrow Agent at their addresses contained in this Agreement. In the event that a required deposit to the Escrow Agent is not made within one Business Day after receipt of an auditor's report or a Recomputation Certificate, Escrow Agent shall send notification to the Commission within the next two Business Days.

9. Escrow Agent shall invest the funds in the Escrow Account in Qualified Investments as directed by Customer in its sole and absolute discretion. "Qualified Investments" means, to the extent permitted by applicable law:

(a) Government obligations or obligations of any agency or instrumentality of the United States of America;

(b) Commercial paper issued by a United States company rated in the two highest numerical "A" categories (without regard to further gradation or refinement of such rating category) by Standard & Poor's Corporation, or in the two highest numerical "Prime" categories (without regard to further gradation or refinement of such rating) by Moody's Investor Services, Inc.;

(c) Certificates of deposit and money market accounts issued by any United States bank, savings institution or trust company, including the Escrow Agent, and time deposits of any bank, savings institution or trust company, including the Escrow Agent, which are fully insured by the Federal Deposit Insurance Corporation;

(d) Corporate bonds or obligations which are rated by Standard & Poor's Corporation or Moody's Investors Service, Inc. in one of their three highest rating categories (without regard to any gradation or refinement of such rating category by a numerical or other modifier); and

(e) Money market funds registered under the Federal Investment Company Act of 1940, as amended, and whose shares are registered under the Securities Act of 1933, as amended, and whose shares are rated "AAA", "AA + " or "AA" by Standard & Poor's Corporation.

10. All interest and other profits earned on the amounts placed in the Escrow Account shall be credited to Escrow Account.

11. This Agreement has been entered into by the parties hereto, and the Escrow Account has been established hereunder by Customer, to establish the financial responsibility of Customer as the owner, operator or charterer of the passenger vessel(s) (see Exhibit A), in accordance with 46 CFR part 540, subpart A. The Escrow Account shall be held by Escrow Agent in accordance with the terms hereof, to be utilized to discharge Customer's legal liability to indemnify the passengers of the named vessel(s) for non-performance of transportation within the meaning of 46 CFR

540.2(m). The Escrow Agent shall make indemnification payments pursuant to written instructions from Customer, on which the Escrow Agent may rely, or in the event that:

(1) The passenger makes a request for refund from the Principal in accordance with the ticket contract. If, the ticket contract refund procedure provides less than 180 days, this Escrow Account shall be available after written notification to Principal.

(2) If the passenger is unable to resolve the claim within 180 days after nonperformance, as defined in 46 CFR 540.2, occurs, the passenger may submit a claim against the Escrow Account as per instructions on the Commission website. The claim must include a copy of the boarding pass, proof and amount of payment, cancellation notice, and dated proof of properly filed claim against the Principal. All documentation must clearly display the vessel and voyage with scheduled and actual date of sailing. And, The Escrow Agent shall make indemnification payments pursuant to written instructions from Customer, on which the Escrow Agent may rely, or in the event that such legal liability has not been discharged by Customer within twenty-one (21) days after any such passenger has obtained a final judgment (after appeal, if any) against Customer from a United States Federal or State Court of competent jurisdiction the Escrow Agent is authorized to pay funds out of the Escrow Account, after such twenty-one day period, in accordance with and pursuant to the terms of an appropriate order of a court of competent jurisdiction on receipt of a certified copy of such order.

(3) Valid claims must be paid within 90 days of submission to the Escrow Agent.

As further security for Customer's obligation to provide water transportation to passengers holding tickets for transportation on the passenger vessel(s) (see Exhibit A) Customer will pledge to each passenger who has made full or partial payment for future passage on the named vessel(s) an interest in the Escrow Account equal to such payment. Escrow Agent is hereby notified of and acknowledges such pledges. Customers' instructions to Escrow Agent to release funds from the Escrow Account as described in this Agreement shall constitute a certification by Customer of the release of pledge with respect to such funds due to completed, canceled or terminated cruises. Furthermore, Escrow Agent agrees to hold funds in the Escrow Account until directed by Customer or a court order to release such funds as described in this Agreement. Escrow Agent shall accept instructions only from Customer, acting on its own behalf or as agent for its passengers, and shall not have any obligations at any time to act pursuant to instructions of Customer's passengers or any other third parties except as expressly described herein. Escrow Agent hereby waives any right of offset to which it is or may become entitled with regard to the funds on deposit in the Escrow Account which constitute Unearned Passenger Revenue.

12. Customer agrees to provide to the Escrow Agent all information necessary to facilitate the administration of this

Agreement and the Escrow Agent may rely upon any information so provided.

13. Customer hereby warrants and represents that it is a corporation in good standing in its State of organization and that is qualified to do business in the State of. Customer further warrants and represents that (i) it possesses full power and authority to enter into this Agreement and fulfill its obligations hereunder and (ii) that the execution, delivery and performance of this Agreement have been authorized and approved by all required corporate actions.

14. Escrow Agent hereby warrants and represents that it is a national banking association in good standing. Escrow Agent further warrants and represents that (i) it has full power and authority to enter into this Agreement and fulfill its obligations hereunder and (ii) that the execution, delivery and performance of this Agreement have been authorized and approved by all required corporate actions.

15. This Agreement shall have a term of one (1) year and shall be automatically renewed for successive one (1) year terms unless notice of intent not to renew is delivered to the other party to this Agreement and to the Commission at least 90 days prior to the expiration of the current term of this Agreement. Notice shall be given by certified mail to the parties at the addresses provided in Paragraph 25 below. Notice shall be given by certified mail to the Commission at the address specified in this Agreement.

16. (a) Customer hereby agrees to indemnify and hold harmless Escrow Agent against any and all claims, losses, damages, liabilities, cost and expenses, including litigation, arising hereunder, which might be imposed or incurred on Escrow Agent for any acts or omissions of the Escrow Agent or Customer, not caused by the negligence or willful misconduct of the Escrow Agent. The indemnification set forth herein shall survive the resignation or removal of the Escrow Agent and the termination of this agreement.

(b) In the event of any disagreement between parties which result in adverse claims with respect to funds on deposit with Escrow Agent or the threat thereof, Escrow Agent may refuse to comply with any demands on it with respect thereto as long as such disagreement shall continue and in so refusing, Escrow Agent need not make any payment and Escrow Agent shall not be or become liable in any way to Customer or any third party (whether for direct, incidental, consequential damages or otherwise) for its failure or refusal to comply with such demands and it shall be entitled to continue so to refrain from acting and so refuse to act until such conflicting or adverse demands shall finally terminate by mutual written agreement acceptable to Escrow Agent or by a final, non-appealable order of a court of competent jurisdiction.

17. Escrow Agent shall be entitled to such compensation for its services hereunder as may be agreed upon from time to time by Escrow Agent and Customer and which shall initially be set forth in a separate letter agreement between Escrow Agent and Customer. This Agreement shall not become effective until such letter agreement has been executed by both parties hereto and confirmed in writing to the Commission.

18. Customer may terminate this Agreement and engage a successor escrow agent, after giving at least 90 days written termination notice to Escrow Agent prior to terminating Escrow Agent if such successor agent is a commercial bank whose passbook accounts are insured by the Federal Deposit Insurance Corporation and such successor agrees to the terms of this agreement, or if there is a new agreement then such termination shall not be effective until the new agreement is approved in writing by the Commission. Upon giving the written notice to Customer and the Commission, Escrow Agent may terminate any and all duties and obligations imposed on Escrow Agent by this Agreement effective as of the date specified in such notice, which date shall be at least 90 days after the date such notice is given. All escrowed funds as of the termination date specified in the notice shall be turned over to the successor escrow agent, or if no successor escrow agent has been named within 90 days after the giving of such notice, then all such escrowed funds for sailing scheduled to commence after the specified termination date shall be returned to the person who paid such passage fares upon written approval of the Commission. In the event of any such termination where the Escrow Agent shall be returning payments to the passengers, then Escrow Agent shall request from Customer a list of passenger names, addresses, deposit/fare amounts and other information needed to make refunds. On receipt of such list, Escrow Agent shall return all passage fares held in the Escrow Account as of the date of termination specified in the notice to the passengers, excepting only amounts Customer is entitled to receive pursuant to the terms of this Agreement for cruises completed through the termination date specified in the notice, and all interest which shall be paid to Customer.

In the event of termination of this Agreement and if alternative evidence of financial responsibility has been accepted by the Commission and written evidence satisfactory to Escrow Agent of the Commission's acceptance is presented to Escrow Agent, then Escrow Agent shall release to Customer all passage fares held in the Escrow Account as of the date of termination specified in the notice. In the event of any such termination where written evidence satisfactory to Escrow Agent of the Commission's acceptance has not been presented to Escrow Agent, then Escrow Agent shall request from Customer a list of passenger names, addresses, deposit/fare amounts and other information needed to make refunds. On receipt of such list, Escrow Agent shall return all passage fares held in the Escrow Account as of the date of termination specified in the notice to the passengers, excepting only amounts Customer is entitled to receive pursuant to the terms of this Agreement for cruises completed through the termination date specified in the notice, and all interest which shall be paid to Customer. Upon termination, Customer shall pay all costs and fees previously earned or incurred by Escrow Agent through the termination date.

19. Neither Customer nor Escrow Agent shall have the right to sell, pledge,

hypothecate, assign, transfer or encumber funds or assets in the Escrow Account except in accordance with the terms of this Agreement.

20. This Agreement is for the benefit of the parties hereto and, accordingly, each and every provision hereof shall be enforceable by any or each or both of them. Additionally, this Agreement shall be enforceable by the Commission. However, this Agreement shall not be enforceable by any other party, person or entity whatsoever.

21. (a) No amendments, modifications or other change in the terms of this Agreement shall be effective for any purpose whatsoever unless agreed upon in writing by Escrow Agent and Customer and approved in writing by the Commission.

(b) No party hereto may assign its rights or obligations hereunder without the prior written consent of the other, and unless approved in writing by the Commission. The merger of Customer with another entity or the transfer of a controlling interest in the stock of Customer shall constitute an assignment hereunder for which prior written approval of the Commission is required, which approval shall not be unreasonably withheld.

22. The foregoing provisions shall be binding upon undersigned, their assigns, successors and personal representative.

23. The Commission shall have the right to inspect the books and records of the Escrow Agent and those of Customer as related to the Escrow Account. In addition, the Commission shall have the right to seek copies of annual audited financial statements and other financial related information.

24. All investments, securities and assets maintained under the Escrow Agreement will be physically located in the United States.

25. Notices relating to this Agreement shall be sent to Customer at (address) and to Escrow Agent at (address) or to such other address as any party hereto may hereafter designate in writing. Any communication sent to the Commission or its successor organization shall be sent to the following address: Bureau of Certification and Licensing, Federal Maritime Commission, 800 North Capitol NW, Washington, DC 20573-0001.

26. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument.

27. This Agreement is made and delivered in, and shall be construed in accordance with the laws of the State ____ of without regard to the choice of law rules.

In witness whereof, the undersigned have each caused this Agreement to be executed on their behalf as of the date first above written.

By: _____
Title: _____
By: _____
Title: _____

EXHIBIT A

ESCROW AGREEMENT, dated ____ by and between (Customer) and (Escrow Agent).

Passenger Vessels Owned or Chartered

ANNEX 1

RECOMPUTATION CERTIFICATE

To: Federal Maritime Commission
And To: ("Bank")

The undersigned, the Controller of ____ hereby furnishes this Recomputation Certificate pursuant to the terms of the Escrow Agreement dated ____, between the Customer and ("Bank"). Terms herein shall have the same definitions as those in such Escrow Agreement and Federal Maritime Commission regulations.

I. Unearned Passenger Revenue as of ("Date") was: \$ ____

a. Additions to unearned Passenger Revenue since such date were:

1. Passenger Receipts: \$ ____
2. Other (Specify) \$ ____
3. Total Additions: \$ ____

b. Reductions in Unearned Passenger Revenue since such date were:

1. Completed Cruises: \$ ____
2. Refunds and Cancellations: \$ ____
3. Other (Specify) \$ ____
4. Total Reductions: \$ ____

II. Unearned Passenger Revenue as of the date of this Recomputation Certificate is: \$ ____

a. Excess Escrow Amount \$ ____

III. Plus the Required Fixed Amount: \$ ____

IV. Total Required in Escrow: \$ ____

V. Current Balance in Escrow Account: \$ ____

VI. Amount to be Deposited in Escrow Account: \$ ____

VII. Amount of Escrow Account available to Operator: \$ ____

VIII. I declare under penalty of perjury that the above information is true and correct.

Dated: _____

(Signature) _____

Name: _____

Title: _____

(Signature) _____

Name: _____

Title: _____

By the Commission.

Rachel Dickon,

Secretary.

[FR Doc. 2021-18220 Filed 8-24-21; 8:45 am]

BILLING CODE 6730-02-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-HQ-ES-2020-0100; FF09E22000 FXES11180900000 212]

RIN 1018-BE92

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Amur Sturgeon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the Amur sturgeon (*Acipenser schrenckii*), a fish species from the Amur River basin in Russia and China, as an endangered species under the Endangered Species Act of 1973, as amended (Act). After a review of the best scientific and commercial information available, we find that listing the species is warranted. Accordingly, we propose to list the Amur sturgeon as an endangered species under the Act. If we finalize this rule as proposed, it would add this species to the List of Endangered and Threatened Wildlife and extend the Act's protections to the species.

DATES: We will accept comments received or postmarked on or before October 25, 2021. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by October 12, 2021.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Search box, enter FWS-HQ-ES-2020-0100, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on "Comment Now!"

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-HQ-ES-2020-0100, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Document availability: This proposed rule and supporting documents, including the species status assessment (SSA) report, are available at <http://www.regulations.gov> under Docket No. FWS-HQ-ES-2020-0100.

FOR FURTHER INFORMATION CONTACT: Elizabeth Maclin, Chief, Branch of Delisting and Foreign Species, Ecological Services, U.S. Fish and Wildlife Service, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041-3803; telephone, 703-358-2171. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies (including those in the species' range in Russia and China), Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

- (1) The species' biology, range, and population trends, including:
 - (a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;
 - (b) Genetics and taxonomy;
 - (c) Historical and current range, including distribution patterns;
 - (d) Historical and current population levels, and current and projected trends; and
 - (e) Past and ongoing conservation measures for the species, its habitat, or both.
- (2) Factors that may affect the continued existence of the species, which may include destruction, modification, or curtailment of habitat or range; overutilization for commercial, recreational, scientific, or educational purposes; disease; predation; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors.
- (3) Biological, commercial trade, or other relevant data concerning any

threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made "solely on the basis of the best scientific and commercial data available." You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>.

Because we will consider all comments and information we receive during the comment period, and base our determination on the best scientific and commercial data available, our final determination may differ from this proposal. Upon consideration of new information we receive (and any comments on that new information), we may conclude based on the best scientific and commercial data available after considering all of the relevant factors that the species is threatened instead of endangered, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if

requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** at least 15 days before the hearing. For the immediate future, we will provide these public hearings using webinars that will be announced on the Service's website, in addition to the **Federal Register**. The use of these virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Previous Federal Actions

On March 12, 2012, the National Marine Fisheries Service (NMFS) received a petition dated March 8, 2012, from Friends of Animals and WildEarth Guardians to list the Amur sturgeon and 14 related sturgeon species as endangered or threatened species under the Act. NMFS acknowledged receipt of this petition in a letter dated April 14, 2012, and informed the petitioners that NMFS would determine, under section 4 of the Act, whether the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted. Although the petition was initially sent to NMFS, as a result of subsequent discussions between NMFS and the Service regarding the August 28, 1974, memorandum of understanding pertaining to "Jurisdictional Responsibilities and Listing Procedures Under the Endangered Species Act of 1973," we have determined that 10 of the 15 petitioned sturgeon species—including the Amur sturgeon—are under the jurisdiction of the Service. In April 2012, the Service notified the petitioners of this jurisdictional finding. On September 24, 2013, we announced in the **Federal Register** (78 FR 58507) our 90-day finding that the petition presented substantial scientific and commercial information indicating that the petitioned action may be warranted for these 10 sturgeon species.

This document constitutes our review and determination of the status of the Amur sturgeon, our 12-month finding on this species as required by the Act's section 4(b)(3)(B), and our proposed rule to list this species.

Supporting Documents

We prepared a species status assessment (SSA) report for the Amur sturgeon. The SSA analysis was led by a Service biologist, in consultation with other Service staff and species experts.

The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species. The Service sent the SSA report to six independent peer reviewers and received one response.

Proposed Listing Determination

Background

A thorough review of the taxonomy, life history, ecology, and overall viability of the Amur sturgeon is presented in the SSA report (Service 2020; available at <http://www.regulations.gov>). The following discussion is a summary of the biological background on the species from the SSA report.

Taxonomy

The Amur sturgeon (*Acipenser schrenckii*) is one of 27 species of sturgeon in the family Acipenseridae (Fricke et al. 2019, not paginated). The synonyms *Acipenser schrenki* and *Acipenser schrenkii* are sometimes used, but are now considered invalid (Fricke et al. 2019, not paginated; ITIS 2019, not paginated). We are not aware of any taxonomic disputes regarding the validity of the Amur sturgeon as a species. Thus, we determined that the Amur sturgeon is a valid species for listing under the Act.

Physical Description

Amur sturgeon are large fish reaching up to 3 meters (m) (10 feet) in length and 190 kilograms (420 pounds) in weight (Zhuang et al. 2002, p. 659). They have a downward-facing mouth, cartilaginous skeleton, and a series of bony plates in rows along their back (Billard and Lecointre 2001, p. 363). Tactile barbels hang from the mouth (Billard and Lecointre 2001, p. 359). A rare brown morph of Amur sturgeon grows more slowly than the more common gray morph (Zhuang et al. 2002, p. 660). The presence of two color morphs (Zhuang et al. 2002, p. 660; Krykhtin and Svirskii 1997, p. 236) indicates some level of ecological or genetic diversity in the Amur sturgeon.

Range

Amur sturgeon live in the Amur River basin along the far eastern border between China and Russia. The species' range includes the main river, its tributaries, and the Amur Estuary. The species was historically found as far west as Nerschinsk, Russia, in the upper Shilka River (Georgi 1775 cited in Vaisman and Fomenko, p. 4) and in all major tributaries of the Amur. Amur

sturgeon are rare in areas of the estuary with salinity over 7.5 parts per thousand (ppt) (Koshelev et al. 2014a, p. 1314). The species occurs at low densities in the southern (and possibly northern) Sea of Okhotsk. Very rarely, Amur sturgeon are found in the Sea of Japan (Koshelev et al. 2014a, p. 1313). The species may also be present in very small numbers in Lake Khanka in extreme southeast Russia (Ruban and Qiwei 2010, not paginated), although few authors confirm this.

Life History

Amur sturgeon are slow to mature; males require 7 to 12 years, and females 9 to 14 years, before reproducing (Novomodny et al. 2004, p. 19; Zhuang et al. 2002, p. 659). This long time to maturity can slow the species' recovery from disturbance, relative to that of species with shorter generation times. On reaching maturity, fish are between 1.1 and 1.3m (43 to 51 in) long and weigh 6 to 19 kg (13 to 42 pounds; Zhuang et al. 2002, p. 660). Individuals can live up to 60 years (Krykhtin and Svirskii 1997, p. 236) and reproduce every 3 to 4 years (Ruban and Qiwei 2010, not paginated; Vaisman and Fomenko 2006, p. 5; Krykhtin and Svirskii 1997 p. 236).

Spawning adults migrate upstream, mostly in spring (Koshelev et al. 2014b, p. 1126; Zhuang et al. 2002, p. 659; Krykhtin and Svirskii 1997, p. 237; Wei et al. 1997, p. 245). A smaller number of reproductive fish migrate the previous fall (mid-August to late September) and overwinter on the spawning grounds (Ruban 2020, pers. comm.).

The exact distance that fish move upstream is unclear, although fish appear to spawn within the same river regions (lower, middle, upper) as those in which they spend the rest of the year (Ruban and Qiwei 2010, not paginated; Novomodny et al. 2004, p. 18). Few migrations are greater than 500 kilometers (km) (about 300 miles) in length, although some estuary fish travel 1,000 km (600 miles) or more up the river (Novomodny et al. 2004, p. 18) and may spend up to 2 years there prior to reproducing (Krykhtin and Svirskii 1997, p. 237).

Spawning occurs following migration, between May and September. Known spawning sites are primarily in the middle Amur River, including several major grounds in Luobei, Xunke, and Tongjiang counties (Wei et al. 1997, p. 245). This evidence is consistent with findings that the population of Amur sturgeon was historically greatest in this stretch of the river (Krykhtin and Svirskii 1997, p. 237).

Females can lay upwards of 1.3 million eggs in a single spawning, although the norm is between 190,000 and 300,000 eggs (Koshelev et al. 2014b, p. 1127; Zhang 1985 cited in Zhuang et al. 2002, pp. 660–661). In related sturgeon, only about 1 in 2,000 survive their first year post-hatching (Jaric and Gessner 2013, table 1; Jager et al. 2002, table 1). Thereafter, 20 to 90 percent of juvenile fish survive annually (Jaric and Gessner 2013, table 1; Jager et al. 2002, table 1). Although age-specific survival data for Amur sturgeon in particular are not available, the species very likely has similar patterns of survival by age (Kappenmann 2020, pers. comm.).

Larvae hatch faster in warmer compared to colder water, emerging in 3 to 14 days (Krykhtin and Svirskii 1997, p. 237), then likely drift downstream. They begin feeding around 9 days post-hatching (Zhuang et al. 2003, figure 5; Krykhtin and Svirskii 1997, p. 237). After about 30 days, they metamorphose into juvenile fish of about 4 centimeters (cm) (2 inches) in length and 3 grams (0.1 ounces) in weight (Zhuang et al. 1999a and Liu et al. 2000 cited in Zhuang et al. 2002, p. 661). Juveniles feed in shallow shorelines and smaller tributaries and lakes (Zhuang et al. 2002, p. 659).

By 1 year of age, fish average approximately 30 cm (12 inches; Nikolskii 1960 cited in Zhuang et al. 2002, p. 660). Six-year-old individuals may be 90 cm (35 inches), 25-year-old fish 2 m (7 feet), and large 40-year-old fish can approach 2.5 m (8 feet; Zhang 1985 cited in Zhuang et al. 2002, p. 660).

Amur sturgeon prey on larval insects, small mollusks, crustaceans, and fish (Novomodny et al. 2004, p. 19; Nikolskii 1960 and Sun et al. 2000 cited in Zhuang et al. 2002, p. 660), with geographic and age-based variation in preferred food items (Kolybov and Koshelev 2014, p. 489; Sun et al. 2000 and Nikolskii 1960 cited in Zhuang et al. 2000, p. 660; Krykhtin and Svirskii 1997, p. 236).

Population Biology

Amur sturgeon are thought to spawn primarily within the same larger river regions as those in which they feed throughout the year (Ruban and Qiwei 2010, not paginated; Novomodny et al. 2004, p. 18). Therefore, we followed the limited literature (e.g., Koshelev et al. 2014a, entire; Krykhtin and Svirskii 1997, pp. 236–238) and considered fish in four river regions to be the analysis units for our assessment of the species' status. These units are:

- Amur Estuary, inclusive of the few individuals found in the Sea of Japan and Sea of Okhotsk;
- Lower Amur, from Khabarovsk, Russia, to the mouth of the river where it meets the estuary;
- Middle Amur, from Heihe, China, to Khabarovsk, Russia, inclusive of the Zeya and Bureya Rivers, both northern tributaries of the Amur; and
- Upper Amur, upstream of Heihe, China, inclusive of the Shilka and Argun Rivers whose confluence form the Amur headwaters.

Some fish from the Lower, Middle, and Upper Amur may enter the estuary to forage, but this is likely rare (Zhuang et al. 2003, p. 38).

We use the analysis units to describe what we determine to be regions where Amur sturgeon likely have reproduced in at least partially distinct populations, where they may face different conservation threats, and where their status may be different. Although the exact migration routes, spawning locations, delineations between, and

levels of interbreeding among fish from these regions are not known, there are clearly different breeding stocks, separated by time and location. For instance, fish from the Zeya and Bureya breed in the Upper and upper Middle Amur (Krykhtin and Svirskii 1997, pp. 235–236), whereas fish from the estuary and lower river migrate upstream to breed between Luobei, Xunke, and Tongjiang counties along the lower Middle Amur (Wei et al. 1997, p. 245).

Fish that do not reproduce in a given year do not migrate (e.g., Koshelev et al. 2014a, entire; Krykhtin and Svirskii 1997, pp. 236–238). All estuary fish that reproduce do so only after having migrated upstream into the river. Offspring from the estuary population may spend up to 2 years in the river before reproducing and returning to the estuary to mature (Krykhtin and Svirskii 1997, p. 237).

Population Size and Demography

A series of Amur sturgeon surveys conducted between 2005 and 2011 (Koshelev et al. 2014a, pp. 1310–1314) are the most comprehensive, quantitative appraisal of the species we are aware of, for either contemporary or historical population estimates. A greater than 95 percent decline in the species’ abundance was estimated between 1960 and 2010 (Ruban and Qiwei, 2010, not paginated), and sizeable populations now exist only in the Amur Estuary and Lower Amur analysis units (see table 1, below). The species is extirpated from the Upper Amur and largely so from the Middle Amur (Koshelev et al. 2014a, pp. 1313–1316). The remaining population exhibits a skewed sex ratio of 1 female per 2 males, very likely due to preferential poaching of females for caviar and use in aquaculture (Koshelev et al. 2014b, pp. 1127, 1129, and chapter 3 of the SSA for a detailed discussion of sturgeon harvesting).

TABLE 1—POPULATION ESTIMATES FOR AMUR STURGEON ANALYSIS UNITS, 2005–2011

Population	Most recent condition
Amur Estuary	Extant; ~264,000 fish >1 year old; surveys 2005–2011.
Lower Amur	Extant; ~25,000 fish >1 year old; higher density closer to the estuary.
Middle Amur	Extirpated from the Songhua, Nen, Zeya, and Bureya Rivers and nearly so from the entire unit.
Upper Amur	Very likely extirpated, including from the Argun and Shilka Rivers.

Note: Sources for the information in this table are Koshelev et al. 2014a, pp. 1312–1316; Cai et al. 2013, p. 150; Simonov and Dahmer 2008, p. 129; and Novomodny et al. 2004, p. 18.

Regulatory and Analytical Framework
Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an “endangered species” or a “threatened species.” The Act defines an “endangered species” as a species that is in danger of extinction throughout all or a significant portion of its range, and a “threatened species” as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an “endangered species” or a “threatened species” because of any of the following factors:

- (A) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (B) Overutilization for commercial, recreational, scientific, or educational purposes;
- (C) Disease or predation;
- (D) The inadequacy of existing regulatory mechanisms; or

- (E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species’ continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory

definition of an “endangered species” or a “threatened species.” In determining whether a species meets either definition, we must evaluate all identified threats by considering the species’ expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an “endangered species” or a “threatened species” only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data available regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent a decision by the Service on whether the species should be proposed for listing as an endangered or threatened species under the Act. It does, however, provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS-HQ-ES-2020-0100 on <http://www.regulations.gov>.

To assess the Amur sturgeon's viability, we used the three conservation-biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes). In general, the more resilient and redundant a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best scientific and commercial information available to characterize viability as the

ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision.

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability.

Overfishing and the Trade in Amur Sturgeon Caviar and Meat

Unsustainable harvest for caviar and meat consumption is the foremost threat to the Amur sturgeon (Vaisman and Fomenko 2006, entire; Zhuang et al. 2002, p. 659). Both domestic and international demand fuel the market for these products and are a primary reason that 85 percent of sturgeon species are listed as critically endangered or extinct in the wild on the International Union for the Conservation of Nature's Red List (note that while informative the Red List has no legal effect and uses different standards for inclusion than does the Act; Rachler and Reinartz 2017, p. 1).

The threat posed by overfishing is despite both Russian and Chinese prohibition of open commercial fishing and trade of the Amur sturgeon. In China, permits have been required since 2001 (Harris and Shiraishi 2018, pp. 46–47; Wang and Chang 2006, p. 48) and the country's law enforcement efforts limit poaching in Chinese territory (Simonov and Dahmer 2008, p. 130; Novomodny et al. 2004, p. 24). In Russia, the commercial Amur sturgeon fishery has been banned since 1984 and was previously limited or closed by a series of temporary regulations as early as the 1920s (Harris and Shiraishi 2018, p. 9). However, since 1991 Russian state-sanctioned harvests (so-called “test fishing” or “controlled catches”), purportedly for population monitoring, have likely been used as cover for continued fishing and commercial sale (Vaisman and Fomenko 2006, pp. v, 9–18; CITES 2001, p. 35). There is no restriction on the sale of caviar produced from fish caught in test fishing and it is likely that test fishing quotas are regularly exceeded (Vaisman and Fomenko 2006, p. 10). Overall, fishing bans (Wang and Chang 2006, p. 51; Xinhuanet, June 11, 2002) have not been successful at protecting or restoring the species, given the long history of overexploitation and ongoing harvests, both illegal (see below) and state-sanctioned.

Prior to the current set of fisheries regulations, legal overharvest caused a greater than 99 percent decline in the volume of Amur sturgeon caught in Russia between 1891 and 1948 (Kryukov 1894 cited in Kryukhtin and Svirskii 1997, pp. 231–232). Fishing records from China similarly indicate that overfishing has caused massive population declines in the Amur sturgeon (Wang and Chang 2006, p. 45). After a peak of 461 mt (508 t) in 1981, the Chinese catch declined precipitously to an average of just less than 120 mt (130 t) between 1996 and 2002, with just 50 and 25 mt (55 and 28 t) caught in the final 2 years (Vaisman and Fomenko 2006, table 6). Overall, the species' population declined by greater than 95% between 1960 and 2010 (Ruban and Qiwei 2010, not paginated).

In the 1990s and early 2000s, the Amur sturgeon was by far the most commonly traded sturgeon species in China (Zhu et al. 2008, p. 31). Although this demand was largely fulfilled with captive-bred fish, the large-scale use of wild-caught Amur sturgeon as broodstock in aquaculture contributed to a crash in Amur sturgeon populations (Simonov and Dahmer 2008, p. 129 and figure 3.4; Wei no date, p. 1). By 2017, some residents of the Amur region within China reported that the fish's population was so low that it could not support a profitable fishery (Harris and Shiraishi 2018, p. 46).

The Amur sturgeon was included in Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1998, along with all other species in the order Acipenseriformes not previously listed under Appendix I (CITES 1997a, pp. 80–84; CITES 1997b, pp. 171; Ruban and Qiwei 2010, not paginated; Wang and Chang 2006, p. 48). Both range countries, Russia and China, are Parties to CITES, as is the United States. CITES Parties adopted a series of recommendations to improve regulation of the international sturgeon trade (Harris and Shirashi 2018, pp. 19–22), including reporting of scientifically based quotas for any legal wild-caught sturgeon (CITES 2015, entire; CITES 2010, entire) and a caviar-labeling system to verify its legal origin (CITES 2015; 50 CFR 23.71; USFWS OLE 2008).

Since the inclusion of all sturgeon species in the CITES Appendices in 1998, the proportion of caviar in international trade reported to be of captive-bred origin has climbed from near zero to near 100 percent (CITES Trade database cited in Harris and Shiraishi 2018, p. 25; UNEP–WCMC 2008 p. 31). Since 2011, no quotas for wild-caught Amur sturgeon have been

reported to CITES, indicating that no wild-caught Amur sturgeon can be legally traded internationally until quotas are reestablished. This is in line with the existing bans on commercial fishing in Russia and China. Still, some wild-sourced caviar is very likely traded internationally using fraudulent labels or without reporting (UNEP-WCMC 2012, pp. 22). The sale of caviar and meat with mislabeled origin, species, or both makes enforcement difficult (Harris and Shiraishi 2018, Table 9) and it is very challenging for enforcement officials to confidently differentiate wild from captive-bred caviar (e.g., DePeters et al. 2013, pp. 130–131; Czesny et al. 2000, pp. 147–148). Domestic sale of caviar (including in the United States, China, and Russia) is not subject to CITES labeling requirements, likely facilitating trade in wild-sourced products (Harris and Shiraishi 2018, p. 54; Vaisman and Fomenko 2006, p. 20). In addition, legitimate CITES labels and containers are resold for use in concealing transport of illegal caviar (van Uhm and Siegel 2016, p. 81).

Following the inclusion of the Amur sturgeon in CITES Appendix II in 1998, there was a notable increase in illegal Russia-to-China transport of caviar and meat (Vaisman and Fomenko 2006, p. 24). Fertilized eggs were also confiscated in transit from Russia to China and very likely destined for use in aquaculture (Harris and Shiraishi 2018, p. 40; Vaisman and Fomenko 2006, p. 24).

The Amur River was identified in 2018 as one of the most concerning regions for sturgeon poaching globally (Harris and Shiraishi 2018, p. 12) and an estimated 95 percent of spawning Amur sturgeon are harvested annually (Simonov and Dahmer 2008, p. 47; note: This is 95 percent of the approximately one quarter of all adults that spawn annually, not of all adults in the population). Illegal sturgeon harvesting has been widespread, intense, and sometimes sophisticated, with up to 750 metric tons (mt) (830 U.S. tons (t)) of Amur sturgeon harvested illegally (Erickson et al. 2007, p. 31) and up to 1,000 poachers detained in Russia annually (all sturgeon species, not just Amur sturgeon; Vladivostok News, June 24, 2003). Organized and sometimes violent crime units control the harvest of Amur sturgeon in Russia, especially in the vicinity of Khabarovsk (Vaisman and Fomenko 2006, p. 19; Krykhtin and Svirskii 1997, p. 237), and fishing impacts have been especially intense on the Middle Amur spawning grounds (Krykhtin and Svirskii 1997, p. 237). As a result, the species became markedly

less common in the early 2000s (Vaisman and Fomenko, 2006, p. 16).

Although the caviar resulting from test fishing was legal for sale in Russia, between 90 and 100 percent of domestically sold Amur sturgeon was believed to be illegally caught in recent years (Harris and Shiraishi 2018 p. 33; Vaisman and Fomenko 2006, p. 22). Nearly every market stall in the city of Khabarovsk sold illegally sourced caviar, and one could place an advance order for up to several metric tons of sturgeon meat (potentially several hundred smaller fish) (Vaisman and Fomenko 2006, p. 20). In 2018, Khabarovsk residents indicated that sturgeon products remained easy to find on the black market (Harris and Shiraishi 2018, p. 40). Russian law does not provide for punishments strong enough to deter poaching (Musing et al. 2019, p. 20; Harris and Shiraishi 2018, p. 40; Erickson et al. 2007, p. 30; Vaisman and Fomenko 2006, p. 18), most arrests led to dismissal of the case before prosecution due to a pardon or the expression of remorse by defendants (Vaisman and Fomenko 2006, p. 17), and Russia remains the largest consumer of Amur sturgeon (Vaisman and Fomenko 2006, pp. iv–vii).

Illegal international trade in Amur sturgeon products adds to the threat faced by the species. About 8 percent of 17 mt (19 t) of Amur sturgeon caviar arriving in the United States between 2000 and 2019 was determined to be illegal and was seized before import (CARS 2020, not paginated; CITES and UNEP-WCMC 2019). However, because of the very nature of illegal trade, its volume cannot be fully captured by the available data. Nonetheless, the United States has been the largest importer of sturgeon and sturgeon products (all *Acipenser* species) since 1998 (Harris and Shiraishi 2018, p. 26; UNEP-WCMC 2012, p. 22). At least through the mid-2000s, illegal import of sturgeon products to the United States was common among major caviar retailers (Wyler and Sheikh 2013, p. 10; Service 2005, p. 7). Most seized caviar was confiscated because of violations of CITES requirements (e.g., incorrect label design, missing information, or misidentified species), and some purportedly captive-sourced caviar is likely wild-sourced product misrepresented as of farmed origin (Irving 2021, pers. comm.).

Nearly 3.8 mt (4.2 t) of Amur sturgeon caviar were imported into the European Union between 1998 and 2006 (UNEP-WCMC 2008, p. 31), representing 19 percent of the total reported exports from China and Russia (Engler and Knapp 2008, table 3). Between 2007 and

2015, Belgium alone imported almost 3 mt (3.3 t) of Amur sturgeon—mostly as caviar—and over 14.5 mt (15.9 t) of kaluga-Amur sturgeon hybrid products (Musing et al. 2018, p. 37). Most French vendors said that wild-sourced caviar is no longer available, although one said it could be obtained on the black market (Harris and Shiraishi 2018, p. 45).

A growing trade in sturgeon-containing cosmetics has opened newer markets, especially in Japan (Harris and Shiraishi 2018, p. 68), where poached Amur sturgeon products were reported to be continuously available in the mid-2000s (Vaisman and Fomenko 2006, p. 23) and where illegal sturgeon-containing cosmetics were seized in large volumes in 2016 (Harris and Shiraishi 2018, p. 59).

In summary, there is abundant evidence that heavy fishing pressure has for several decades put severe strain on Amur sturgeon populations. The black-market trade and the laundering of wild-caught fish and caviar into the legal market for captive-bred products has continued to negatively affect the species in the wild despite the CITES requirements for international trade in Amur sturgeon. More detail on the harvest and trade of the Amur sturgeon is available in the SSA report.

Dams

The main stem of the Amur River remains one of the largest undammed rivers in the world (GRanD 2019, not paginated; Lehner et al. 2011, pp. 494–502; Simonov and Dahmer 2008, p. 185), but repeated proposals to build dams there have occurred for at least 70 years (Simonov and Markina 2010, not paginated). The construction of dams blocks migration routes between Amur sturgeon feeding grounds (downstream) and spawning grounds (upstream); in several major tributaries of the Amur, this has stopped reproduction (Zhuang et al. 2016, p. 66; Wu et al. 2015, pp. 839–842; Gessner et al. 2010, not paginated). Dams can also increase sediment and pollution concentrations, limiting sunlight that benefits egg development and reducing the adhesion of eggs to the substrate (Li et al. 2012, p. 557).

The Russian state hydrological plan for the Amur region does not include development of hydropower dams on the river's main stem, and little regional demand exists for additional electrical capacity on the Russian side of the river (Simonov 2016, not paginated). However, proposals still exist for as many as 13 dams on the Amur River or the Shilka River, its source (Simonov et al. 2019, figure 2).

Some Russian water-management agencies are now promoting flood control for property protection in the Amur floodplain, and Chinese institutions remain interested in future hydropower development as the much larger human population on their side of the river demands electricity (Simonov 2016, not paginated). Construction of any dam on the Lower or lower Middle Amur main stem would be catastrophic for Amur sturgeon by hindering or preventing connectivity (Simonov and Dahmer 2008, pp. 193–196). The Khingansky-Taipinggou Dam, proposed for the Middle Amur, would have severe hydrological impacts on the river, creating a complete barrier to migrating fish (Simonov and Egidarev 2018, pp. 9–10). Until recently, prevailing economic and social conditions made it unlikely that Chinese and Russian counterparts would agree to advance such a project in the next several years (Simonov and Egidarev 2018, p. 10); however, recently thawing China-Russia relations (Chen 2019, pp. 62–64) could now lead to further discussion and construction of a main stem dam.

While the Amur itself remains free-flowing, approximately 100 dams dot its tributaries (Simonov et al. 2019, p. 4). Many of these are small and the impacts of smaller dams on Amur sturgeon are uncertain, but they more likely than not prevent connectivity along stretches of several tributaries and have likely contributed to the species' decline.

Several tributaries also have larger dams; in all such cases, Amur sturgeon have been extirpated from these rivers due in large part to the inability of Amur sturgeon to pass over or around the dams. The Songhua River, a major tributary in the lower section of the Middle Amur, is interrupted by the Baishan, Hongshi, and Xiao Fengman dams (GRanD 2019, not paginated; Lehner et al. 2011, pp. 494–502), which are approximately 150, 50, and 150 m tall, respectively. The Nierji Dam on the Nen River was built in 2006, after the Amur sturgeon was extirpated from this tributary (Lehner et al. 2011; GRanD 2019, not paginated), but because it blocks the route taken by Nen River spawners, its presence would make any restoration efforts there difficult.

Farther upstream, the Zeya and Bureya Rivers are interrupted by dams built in 1975 and 2003, respectively (GRanD 2019, not paginated; Simonov et al. 2019, p. 4; Lehner et al. 2011, pp. 494–502). These two large hydroelectric dams are 115 and 140 m high (Lehner et al. 2011, pp. 494–502), and have the greatest ecological impacts of any of the dams in the Amur basin (Simonov and Dahmer 2008, p. 191). They block Amur

sturgeon migrations and destroyed downstream wetlands (Simonov and Egidarev 2008, p. 192), contributing substantially to the extirpation of the species from these rivers (Koshelev et al. 2014a, pp. 1313, 1316; Krykhtin and Svirskii 1997, p. 237). Another dam downstream of the existing Bureya impoundment began operating in 2017 (Simonov et al. 2019, p. 4) and its presence and effect on the river further limits the potential to restore sturgeon to the Bureya River by making yet a longer stretch of river inaccessible to Amur sturgeon.

Sturgeon are slower swimmers with large bodies; therefore, both fish elevators and fish ladders have been relatively ineffective at allowing sturgeon to transit around dams (Billard and Lecoindre 2001, p. 380). For the Amur sturgeon, fish passageways made to allow travel through or around dams must include resting pools between fast velocity runs and must be wider than the maximum tail-beat width during swimming (Cai et al. 2013, p. 153). However, we have no information indicating that such structures are built into dams in the Amur basin, and the best scientific and commercial information available shows that the Amur sturgeon is unable to traverse the larger existing dams constructed in the Amur basin, limiting its range to stretches of river below existing large dams and contributing to its decline. Remaining available spawning grounds are substantially reduced compared to their historical extent.

Pollution

Pollution of the Amur basin has likely contributed to the decline of the Amur sturgeon, given the volume and extent of pollution in the Amur basin, the susceptibility of the species to pollutants, and reports of large-scale fish kills in polluted river reaches (Simonov and Dahmer 2008, pp. 47, 212–236; Zhang 1985 cited in Zhuang et al. 2003, p. 38). Extensive human settlements, agriculture, and industry—especially but not exclusively in China—all pollute the Amur River and its tributaries with petrochemicals, heavy metals, and persistent organic pollutants such as polychlorinated biphenyls (PCBs) (Jiang et al. 2016, p. 537; Meng et al. 2016, pp. 1–5). Many Amur River fish, including the single Amur sturgeon sampled, contained copper, chromium, arsenic, and mercury (Jiang et al. 2016, p. 540, table 2).

In the late 1990s and early 2000s, pollution in the Lower Amur was considered at an emergency level, and mass fish kills were not uncommon

(Erickson 2007, p. 30; Jen 2003, p. 3). Sewage, domestic animal feces, pesticides, petrochemicals, heavy metals, and industrial pollutants including PCBs (Jiang et al. 2016, p. 537; Meng et al. 2016, pp. 1–5; Kondratyeva et al. 2012, p. 186), as well as eutrophication (the process by which waters lose oxygen following extreme plant growth triggered by excessive nutrient inputs) due to fertilizer runoff, all damaged the river basin's ecosystems (Erickson 2007, p. 30; Jen 2003, pp. 2–3).

In the Middle Amur analysis unit, the Zeya and Bureya catchments were substantially polluted with mercury, cadmium, and lead as of 2005 (Kondrat'eva et al. 2013, p. 131). In addition, these two river basins are home to more than 30 reservoirs storing heavily polluted wastewater and mining residues. The potential for future failure of the smaller dams that contain these reservoirs and the consequent release of toxic pollutants into the river system poses a high risk to remaining habitats suitable for Amur sturgeon (Simonov and Dahmer 2008, p. 191).

In 2001, 100 million mt (110 million t) of wastewater containing 2,500 mt (2,800 t) of organic chemicals, 80 mt (88 t) of oil products, more than 1,000 mt (1,100 t) of nitrogenous waste, and 2.5 mt (2.8 t) of phenols were discharged into the Amur from Blagoveschensk, Russia at the boundary of the Middle and Upper Amur (Simonov and Dahmer 2008, p. 2016). In the Upper Amur, including the Shilka, Amgun, and Argun Rivers, illegal gold mining causes sedimentation and turbidity, hampering sturgeon reproductive success (Pacific Environment 2016, not paginated; Egidarev and Simonov 2015, pp. 900, 906–907).

Historically, the Songhua River in the Middle Amur has been the most contaminated tributary (Kondratyeva et al. 2012, p. 185); the Amur sturgeon is extirpated from this river, very likely in part due to pollution (Cai et al. 2013, p. 150; Simonov and Dahmer 2008, p. 129; Novomodny et al. 2004, p. 18). Two industrial accidents at Jilin City, China, contaminated the Songhua (and eventually the Amur River, 1,000 km (600 miles) downstream) in 2005 and 2010. They released a combined 600 mt (660 t) of methyl chloride, trimethyl chloride, nitrobenzene, benzene, aniline, chloroform, chlorobenzene, and other chemicals into the Songhua (Kondratyeva et al. 2012, p. 186; The Guardian, November 25, 2005). Concentrations of these chemicals were as high as 600 times the government-accepted levels (Kondratyeva et al. 2012, p. 186) and were later detected in

fish tissues, including those of Amur sturgeon (Kondratyeva et al. 2012, pp. 187–189; Levshina et al. 2009, table 1, p. 779). Also in the Songhua, heavy metals leach into the river from nearby mines (Jen 2003, p. 4), and fish tissues have PCB concentrations up to 10,000 times those in the sediment (Li et al. 1989 cited in Meng et al. 2016, p. 5). Some Amur River fish are even said to smell of chemicals (Simonov and Dahmer 2008, p. 225).

The impacts of pollution on wild Amur sturgeon have not been well-studied, but their life history and some laboratory studies indicate they are likely quite susceptible. Because the Amur sturgeon is a river bottom species, it is exposed to pollutants that accumulate in sediments and in its bottom-dwelling prey (Kasymov 1994 cited in He et al. 2017, p. 10; Kondrat'eva et al. 2013, p. 129; Kocan et al. 1996, p. 161). Larvae and small juveniles may be especially sensitive to petrochemicals polluting the Amur (Kondratyeva and Stukova 2009, p. 46; Bickham et al. 1998, pp. 514–515; Kocan et al. 1996, p. 163), although extrapolating results from laboratory trials to impacts on wild fish is not straightforward (Tabak et al. 2002, table 3; Bickham 1998, pp. 514–515).

Comprehensive toxin concentration data from around the basin and knowledge of the concentration thresholds at which Amur sturgeon are affected are unavailable, and field studies definitively linking population declines to pollution also do not exist, to our knowledge. However, sturgeon are, at least at their early life stages, sensitive to polycyclic aromatic hydrocarbons (PAHs), one class of petrochemicals polluting the Amur (Kondratyeva and Stukova 2009, p. 46; Tabak et al. 2002, table 3; Bickham et al. 1998, pp. 514–515; Kocan et al. 1996, p. 163;). Methyl mercury, another pollutant found in the Amur basin, interferes with sturgeon growth and reproduction and can even cause direct mortality (Depew et al. 2012, table 2; Webb et al. 2006, pp. 447–450).

The future trajectory of water quality in the Amur basin is uncertain, but possibly improving as wastewater and industrial waste treatment capacity have been developed since the early 2000s (Meng et al. 2016, pp. 4–5, table 1). Mercury concentrations in Amur River sediments have declined since the 1990s, likely due to a Russian economic slowdown that limited industrial emissions (Kot et al. 2009, p. 133). In addition, human populations of most Chinese industrial cities in the region are shrinking, as cost-efficient raw materials are exhausted and industry

declines (Duhalde et al. 2019, not paginated).

Climate Change

When and how progressing climate change will affect the species is uncertain. Air temperatures in the region are rising (see the SSA report for a detailed analysis), and all species have a thermal maximum; for example, the closely related Yangtze sturgeon becomes stressed above 23 degrees Celsius (°C) (Chang et al. 2017, p. 1449). On the other hand, warmer water can speed the maturation of Amur sturgeon (Krykhtin and Svirskii 1997, p. 237) and so may have short-term positive impacts on the species, but we cannot currently estimate their magnitude or at what point increasing water temperature stops being beneficial. We also do not have information on the water temperatures Amur sturgeon experience at present or reliable projections of what the water temperatures are likely to be in the future. Indirect effects of warming temperatures may impact the Amur sturgeon as climate change progresses. For example, between 1955 and 2014, the average annual duration of ice cover in the Amur basin decreased by 7 days per decade, and the maximum ice thickness decreased by 17 cm (6.7 inches; Vuglinsky and Valantin 2018, p. 83; Ohshima et al. 2016, pp. 10–11). This potentially exposes Amur sturgeon to fishing pressure for a greater proportion of the year.

Other Threats and Conservation Measures

Hybridization, disease, and predation presently constitute lesser or negligible threats to the viability of the Amur sturgeon and are addressed in more detail in the SSA report (Service 2020, pp. 28–29). Although very little information is available on the genetic structure of wild Amur sturgeon populations, representation of the species would be diminished if its genome were diluted by hybridization with escaped captive-bred fish or other sturgeon species. From a fitness perspective, hybridization can erase locally adaptive features that evolved over evolutionary time, and from a conservation-management perspective, muddled genomes make DNA-based identification of traded specimens more difficult (Ludwig 2006, pp. 6). That said, we are not aware that wild Amur sturgeon have been documented hybridizing with fish escaped from aquaculture facilities yet (Osipov 2020, pers. comm.). However, the presence of over 1,200 sturgeon farms across the whole of China (Bronzi et al. 2017, pp. 260) and confirmed escapes and releases

of hybrid fish created in aquaculture suggests it is likely to occur soon, if it has not already (Boscari et al. 2017, pp. 250). The best scientific and commercial information available shows that disease and predation do not presently pose a threat to the viability of the Amur sturgeon.

The primary conservation effort targeting recovery of the Amur sturgeon is the release of captive-bred fish into wild habitats, but these activities are not sufficient to restore wild populations and must employ sound genetic management to avoid the potential impacts of hybridizing maladapted captive-bred fish with wild ones. Whereas some experts have suggested 10 to 11 million fish would need to be released annually to successfully replenish the species (Krykhtin and Gorbach 1994 cited in Koshelev et al. 2014a, p. 1316), no more than 10 percent of this volume has been released, on average, in years since restocking began in 1988 (Simonov and Dahmer 2008, p. 130; Wei et al. 2004, p. 330; Zhuang et al. 2002, p. 361; Qiuzhi and Dajiang 1994, p. 67). As of the early 2000s, 99 percent of the Amur sturgeon produced by China's aquaculture industry (approximately 15 million fish per year) (Wei et al. 2011, figure 2) were sold for meat or caviar (Simonov and Dahmer 2008, p. 131; Wei et al. 2004, p. 330).

We are not aware of any studies that have tracked the growth or reproductive success of Amur sturgeon released from captive-breeding operations. However, when releases do occur, they almost always use very young fish, 30 to 45 days old and weighing in the range of 1 to 5 grams (0.1 ounces). In other sturgeon species, no more than 1 in 2,000 fish survive their first year, although survival rates are much higher thereafter (Jaric and Gessner 2013, table 1; Jager et al. 2002, table 1). If hatcheries grew fish to a larger size before release, their survival and population recovery may improve (Koshelev et al. 2009 and Mikhailova 2004 cited in Koshelev et al. 2014a, p. 1316, scenario 3 in chapter 5 of the SSA, figures 5.2 and 5.3, tables 5.3 and 5.4).

Current Condition

We assessed the current status of the Amur sturgeon in light of the species' demographic and habitat requirements for maintaining low-risk levels of resilience, redundancy, and representation. Resilience is a population-level metric; therefore, we only scored its present levels for the three analysis units where Amur sturgeon are extant (Amur Estuary, Lower Amur, and Middle Amur). The

species is extirpated from a large portion of its range, including the entire Upper Amur unit and several major tributaries.

High-resilience units are those in a self-sustaining condition and experiencing little, if any, risk of extirpation; they have relatively higher abundance of adult females, connectivity between feeding and spawning grounds, high water quality, and fish survive to reproduce multiple times. Moderate-resilience units are unlikely to be self-sustaining and are experiencing some level conservation threat that could eventually lead to extirpation. Low- and very-low-resilience units are not self-sustaining, due to ongoing conservation threats; they may become extirpated, perhaps rapidly in the case of very low-

resilience units. Highly redundant species have a large number of populations, which safeguards against rare, localized catastrophic events. Representation is a measure of the species' capacity to adapt to changing environments.

The species as a whole is estimated to have experienced a population decline of greater than 95 percent between 1960 and 2010 (Ruban and Qiwei 2010, not paginated). However, using a 1960 baseline underestimates actual historical declines in the species' abundance because intense fishing occurred at least as early as the 1890s (Koshelev et al. 2016, p. 240; Vaisman and Fomenko 2006, p. 11). Sizeable populations now exist only in the Amur Estuary and Lower Amur analysis units (Koshelev et al. 2014a, pp. 1313–1316).

The species has a skewed sex ratio of 1 female per 2 males, very likely due to preferential poaching of females for caviar and use in aquaculture (Koshelev et al. 2014b, pp. 1127, 1129), and the largest fish—which are also the most reproductively valuable—have been removed from the population (Koshelev et al. 2014a, table 5).

Our assessment of the resilience of each of the three extant analysis units indicates that none are in self-sustaining condition (see table 2, below). Only the Amur Estuary unit has even moderate resilience. Details of how we determined overall resilience from the four demographic- and habitat-based criteria in table 2, below, can be found in the SSA report.

TABLE 2—CURRENT RESILIENCE OF THE THREE EXTANT AMUR STURGEON ANALYSIS UNITS

Resilience criteria	Amur Estuary	Lower amur	Middle amur
Number of reproductive females ... Water quality to support prey availability and sturgeon health.	~28,860 • Receives water pollution from all upstream reaches, including the heavily polluted Songhua and Lower Amur. • May impact sturgeon health and prey abundance.	~425 • Heavy industrial presence and human population density. • Likely impacts sturgeon health and prey abundance.	Nearly extirpated. • Songhua River includes the most polluted sections of the Amur basin. • The medium-sized cities of Heihe and Blagoveschensk deposit sewage and industrial waste into this reach of the Amur. • Likely impacts sturgeon health and prey abundance.
Survival to reproduce multiple times.	• High fishing pressure • Estimated 95 percent of spawning fish captured annually. • Size of captured fish and proportion of fish that are large females are declining. • Limits average fecundity No dams. Fish can move into the main stem of the river to reach spawning grounds.	• High fishing pressure • Estimated 95 percent of spawning fish captured annually. • Size of captured fish and proportion of fish that are large females are declining. • Limits average fecundity No known barriers to connectivity	• Few reproductive fish present. • Fishing pressure is likely still very high for any fish present.
Connectivity between spawning and feeding grounds.	No dams. Fish can move into the main stem of the river to reach spawning grounds.	No known barriers to connectivity	Songhua, Nen, Zeya, and Bureya River dams prevent fish from reaching spawning sites. Main stem remains without obstructions.
Current Resilience	Moderate	Low	Very low.

Note: Sources for the information in this table are Koshelev et al. 2014a, pp. 1310–1316; Koshelev et al. 2014b, p. 1127; Cai et al. 2013, p. 150; Ruban and Qiwei 2010, not paginated; Simonov and Dahmer 2008, p. 47; Novomodny et al. 2004, p. 18; and others provided in the SSA report's detailed discussion of current condition.

Amur sturgeon redundancy is considerably reduced compared to its historical level, which was never high, given that the species is endemic to a single large river system. One of four units (the Upper Amur) is extirpated, and the Middle Amur unit is on the brink of extirpation, too. The Amur sturgeon has been extirpated from several major tributaries (e.g., the Zeya and Bureya) within the Middle and Lower Amur units. Despite the species' low redundancy, we assess that its geographically dispersed nature, across a several-hundred km stretch of the Lower Amur and Estuary, means that

complete extinction of the population due to a single catastrophic event is unlikely, at present.

We have very little information about the contemporary population genetic structure of wild Amur sturgeon, making it difficult to fully assess the species' representation. However, we can assess that the variety of ecological settings inhabited by Amur sturgeon is at least somewhat reduced in the last century as the geographic range of the species has contracted to primarily the Lower Amur and Amur Estuary, now excluding the Upper Amur, as well as the Zeya, Bureya, and Songhua Rivers,

all tributaries of the Amur. In turn, we expect that adaptive potential of the species is also lower than before, although we cannot quantify this at present.

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species, but we have also analyzed their potential cumulative effects. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. To assess the current and future

condition of the species, we undertake an iterative analysis that encompasses and incorporates the threats individually and then accumulates and evaluates the effects of all the factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

Determination of Amur Sturgeon's Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an "endangered species" or a "threatened species." The Act defines an "endangered species" as a species in danger of extinction throughout all or a significant portion of its range, and a "threatened species" as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of an "endangered species" or a "threatened species" because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we find that existing threats to the Amur sturgeon—primarily overfishing, loss of connectivity due to dams, and pollution—have caused and will continue to cause a decline in the species' viability through reduction of resilience, redundancy, and representation. For the four historical analysis units, one is extirpated, and the remaining three are not self-sustaining. The species is already extirpated from much of its historical range, including most upstream portions of the Amur basin and several major tributaries where dams block access to spawning grounds and migration routes (Factor A). The Middle Amur unit is on the brink of being the second unit

extirpated. Thus, a relatively small portion of the historical range now accounts for most of the remaining Amur sturgeon, increasing the species' susceptibility to stochastic and catastrophic events.

Fish throughout the range experience very intensive fishing pressure, estimated at 95 percent of spawning fish annually (Factor B). This includes fish in the present relative stronghold of the species, the Amur Estuary analysis unit, because they migrate into the river to breed, where they are heavily fished.

Existing conservation measures are Russian and Chinese fishery regulations, the national laws and regulations (Russia, China, U.S., and other CITES Parties) for implementing CITES requirements for international trade in the Amur sturgeon, and limited restocking of wild populations using captive-bred Amur sturgeon. These measures are currently inadequate to stop population declines (Factor D). Organized networks for corrupt and illegal trade of Amur sturgeon caviar and meat, and sometimes involving government officials, create challenges for law enforcement (Vaisman and Fomenko 2006, pp. 14–18). Moreover, it is difficult for even scrupulous law-enforcement agencies to discern between captive-bred and wild-sourced caviar at the point of sale or import. This makes control of illegal harvest and trade challenging (Factors B and D). CITES requirements (e.g., labeling and quota systems) are not applicable to domestic trade, further hampering law-enforcement efforts to control the sale of wild-caught Amur sturgeon in Russia, where the majority of Amur sturgeon products are consumed (Vaisman and Fomenko 2006, pp. iv–vii; Factors B and D). Pollution is also a widespread threat to the Amur sturgeon's habitat and health (Factor A) and is not well regulated (Factor D).

The species is endemic to a single large river basin and is extirpated from much of its historical range already (lost redundancy). At present, no population has the resilience to be self-sustaining. Among the remaining three extant populations, one has moderate resiliency (Amur Estuary), one has low resiliency (Lower Amur), and one has very low resiliency (Middle Amur). Overfishing and dams have reduced the viability of the Amur sturgeon across its distribution. The vast decrease in population abundance is very likely associated with a decrease in genetic diversity (representation) and adaptive potential. Restocking efforts are not currently sufficient to stop declines in resilience and overall abundance. Thus, after assessing the best scientific and

commercial information available, we conclude that the Amur sturgeon currently lacks sufficient resiliency, redundancy, and representation for its continued existence to be secure. We therefore determine that the Amur sturgeon is in danger of extinction throughout all of its range. The species does not fit the statutory definition of a threatened species because it is currently in danger of extinction, whereas threatened species are those in danger of extinction in the foreseeable future.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. We have determined that the Amur sturgeon is in danger of extinction throughout all of its range and accordingly did not undertake an analysis of any significant portion of its range. Because the Amur sturgeon warrants listing as endangered throughout all of its range, our determination is consistent with the decision in *Center for Biological Diversity v. Everson*, 2020 WL 437289 (D.D.C. Jan. 28, 2020), in which the court vacated the aspect of our Final Policy on Interpretation of the Phrase "Significant Portion of Its Range" in the Endangered Species Act's Definitions of "Endangered Species" and "Threatened Species" (79 FR 37578; July 1, 2014) that provided that the Service and NMFS do not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range.

Determination of Status

Our review of the best scientific and commercial information available indicates that the Amur sturgeon meets the definition of an endangered species. Therefore, we propose to list the Amur sturgeon as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and encourages and results in conservation actions by Federal, State, Tribal, and local agencies, foreign governments, private organizations, and individuals. The Act

encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below. Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

An “action” that is subject to the consultation provisions of section 7(a)(2) is defined in our implementing regulations at 50 CFR 402.02 as “all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies in the United States or upon the high seas.” With respect to this species, there are no “actions” known to require consultation under section 7(a)(2) of the Act. Given the regulatory definition of “action,” which clarifies that it applies to activities or programs “in the United States or upon the high seas,” the Amur sturgeon is unlikely to be the subject of section 7 consultations, because the entire life cycle of the species occurs in freshwater and nearshore marine areas outside of the United States unlikely to be affected by U.S. Federal actions. Additionally, no critical habitat will be designated for this species because, under 50 CFR 424.12(g), we will not designate critical habitat within foreign countries or in other areas outside of the jurisdiction of the United States.

Section 8(a) of the Act (16 U.S.C. 1537(a)) authorizes the provision of limited financial assistance for the development and management of programs that the Secretary of the Interior determines to be necessary or useful for the conservation of endangered or threatened species in foreign countries. Sections 8(b) and 8(c)

of the Act (16 U.S.C. 1537(b) and (c)) authorize the Secretary to encourage conservation programs for foreign listed species, and to provide assistance for such programs, in the form of personnel and the training of personnel.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. The prohibitions of section 9(a)(1) of the Act, codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to import; export; deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or sell or offer for sale in interstate or foreign commerce any species listed as an endangered species. In addition, it is unlawful to take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or to attempt any of these) endangered wildlife within the United States or on the high seas. It is also illegal to possess, sell, deliver, carry, transport, or ship, by any means whatsoever any such wildlife that has been taken illegally. Certain exceptions apply to employees of the Service, NMFS, other Federal land management agencies, and State conservation agencies. We may issue permits to carry out otherwise prohibited activities involving endangered wildlife under certain circumstances. Regulations governing permits for endangered wildlife are codified at 50 CFR 17.22, and general Service permitting regulations are codified at 50 CFR part 13. With regard to endangered wildlife, a permit may be issued for the following purposes: For scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. The Service may also register persons subject to the jurisdiction of the United States through its captive-bred-wildlife (CBW) program if certain established requirements are met under the CBW regulations (50 CFR 17.21(g)). Through a CBW registration, the Service may allow a registrant to conduct certain otherwise prohibited activities as part of conservation breeding activities that enhance the propagation or survival of the affected species: Take; export or re-import; deliver, receive, carry, transport or ship in interstate or foreign commerce, in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce. A CBW registration may authorize interstate purchase and sale only between entities that both hold a registration for the taxon concerned.

The CBW program is available for species having a natural geographic distribution not including any part of the United States and other species that the Director has determined to be eligible by regulation. The individual specimens must have been born in captivity in the United States. There are also certain statutory exemptions from the prohibitions, found in sections 9 and 10 of the Act. For example, a limited exemption from the prohibitions on import and export is available under section 9(b)(1) for a specimen of fish or wildlife which was held in captivity or in a controlled environment on the date the species is listed under the Act, provided that such holding and any subsequent holding or use of the fish or wildlife was not in the course of a commercial activity.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within the range of the species proposed for listing. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations and permit requirements; this list is not comprehensive:

(1) Take of the Amur sturgeon in its native range in China and Russia; and

(2) Trade in the Amur sturgeon and its products that is both outside the United States and conducted by persons not subject to U.S. jurisdiction (although this activity would still be subject to CITES requirements).

Based on the best available information, the following activities may potentially result in a violation of section 9 of the Act if they are not authorized in accordance with applicable law; this list is not comprehensive:

(1) Import into the United States of the Amur sturgeon and its products, including fish originating from the wild or captive-bred, without obtaining permits required under Section 10 of the Act and without following applicable CITES requirements at 50 CFR part 23.

(2) Export of the Amur sturgeon and its products, whether originating from the wild or captive-bred, from the United States without obtaining permits required under Section 10 of the Act and without following applicable CITES requirements at 50 CFR part 23.

Separate from its proposed listing as an endangered species, as a CITES-listed species, all international trade of Amur sturgeon by persons subject to the jurisdiction of the United States must also comply with CITES requirements pursuant to Section 9(c), (g) of the Act and 50 CFR part 23. Applicable wildlife import/export requirements established under Section 9(d)–(f) of the Act, the Lacey Act Amendments of 1981 (16 U.S.C. 3371, *et seq.*), and 50 CFR part 14 must also be met for Amur sturgeon imports and exports. Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to Mary Coglianò, Chief of the Branch of Permits (mary_coglianò@fws.gov).

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.
If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (42 U.S.C. 4321 *et seq.*)

We have determined that environmental assessments and environmental impact statements, as defined under the authority of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), need not be prepared in connection with listing a species as an endangered or threatened species under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of references cited in this rulemaking is available on the internet at <http://www.regulations.gov> and upon request from the Branch of Delisting and Foreign Species (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are staff members of the Service’s Branch of Delisting and Foreign Species.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

- 1. The authority citation for part 17 continues to read as follows:
Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.
- 2. Amend § 17.11(h) by adding an entry for “Sturgeon, Amur” to the List of Endangered and Threatened Wildlife in alphabetical order under FISHES to read as follows:

§ 17.11 Endangered and threatened wildlife.
* * * * *
(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
* * * * *				
FISHES				
* * * * *				
Sturgeon, Amur	<i>Acipenser schrenckii</i>	Wherever found	E	[Federal Register citation when published as a final rule].
* * * * *				

Martha Williams,
Principal Deputy Director, Exercising the
Delegated Authority of the Director, U.S. Fish
and Wildlife Service.
[FR Doc. 2021–17881 Filed 8–24–21; 8:45 am]
BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 86, No. 162

Wednesday, August 25, 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

Agricultural Marketing Service

[Doc. No. AMS-FGIS-21-0010]

United States Standards for Sorghum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final notice.

SUMMARY: This action is being taken under the authority of the United States Grain Standards Act, as amended, (USGSA). The United States Department of Agriculture's (USDA) Agricultural Marketing Service (AMS) is making no changes regarding the United States (U.S.) Standards for Sorghum under the USGSA.

DATES: *Applicability date:* Upon Publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Loren Almond, USDA AMS; Telephone: (816) 702-3925; email: Loren.L.Almond@usda.gov.

SUPPLEMENTARY INFORMATION: Section 4 of the USGSA (7 U.S.C. 76(a)) grants the Secretary of Agriculture the authority to establish standards for sorghum and other grains regarding kind, class, quality, and condition. AMS published a Notice in the **Federal Register** on March 26, 2021 (86 FR 16181), inviting interested parties to comment on whether current sorghum standards and grading practices needed to be amended.

AMS received a total of two comments on the U.S. Standards for Sorghum. AMS received one comment from the national commodity organization representing sorghum producers stating that producers were satisfied that current standards were working for the market and recommended AMS make no changes to standards. Additionally, the comment recommended three areas that producers might wish to engage in discussions with AMS in the future.

These areas were: Potential for new sorghum classes; research to develop an electronic odor determination instrument; and changing the unit of measurement for sorghum from hundred weights to bushels. AMS received a joint comment from two organizations representing grain elevator operators that stated the standards were meeting the needs of the market and did not need amendment. The joint comment concurred with the national commodity organization's position on future research areas. AMS welcomes the opportunity to engage with stakeholders on these matters.

Final Action

Based on the comments received, AMS is making no changes to the U.S. Standards for Sorghum at this time.
Authority: 7 U.S.C. 71-87k.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021-18319 Filed 8-24-21; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Forest Service

Manti-La Sal National Forest; Utah; Revision of the Manti-La Sal National Forest Land Management Plan

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service is revising the Land Management Plan (LMP) for the Manti-La Sal National Forest and preparing an environmental impact statement (EIS). This notice describes the documents available for review and how to obtain them; summarizes the need for change to the existing LMP; identifies where a preliminary draft LMP (detailed proposed action) can be obtained; provides information concerning public participation and collaboration, including the process for submitting comments; provides an estimated schedule for the planning process, including the time available for comments; and includes the names and addresses of agency contacts who can provide additional information.

DATES: Comments concerning the preliminary need for change and the

proposed action will be most useful in the development of the revised LMP and draft EIS if received by October 25, 2021. The draft revised LMP and draft EIS are expected summer 2022, and the final revised LMP and final EIS are expected summer 2023.

ADDRESSES: Visit the Manti-La Sal National Forest's planning website at: www.fs.usda.gov/main/mantilasal/landmanagement/planning for instructions on submitting comments using a webform, the preferred approach. Written comments can also be sent to Manti-La Sal National Forest, Attn: Forest Plan, 599 West Price River Drive, Price, UT 84501, via email to mlnfpplanrevision@usda.gov, or via facsimile to (435) 637-4940.

FOR FURTHER INFORMATION CONTACT: Autumn Ela, Forest Planner, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501, 435-210-1608 or autumn.ela@usda.gov.

Individuals who use telecommunication devices for the hearing-impaired (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern Daylight Time, Monday through Friday. More information on the planning process, including access to the preliminary draft proposed plan, the preliminary need for change, the Wild and Scenic River Eligibility Report, and the Wilderness Evaluation Report may be found at www.fs.usda.gov/main/mantilasal/landmanagement/planning.

SUPPLEMENTARY INFORMATION:

Nature of Decision To Be Made

The Manti-La Sal National Forest is preparing an EIS to revise the existing LMP. The EIS process is meant to inform the forest supervisor so he can decide which alternative best maintains and restores terrestrial and aquatic resources while providing ecosystem services and multiple uses on National Forest System lands as required by the National Forest Management Act and the Multiple Use Sustained Yield Act.

The revised LMP will describe the strategic intent of managing the Manti-La Sal National Forest for the next 10 to 15 years and will address the identified need for change to the existing LMP. The revised LMP will provide management direction in the form of desired conditions, objectives,

standards, guidelines, and suitability of lands.

Identifying the types of decisions that will not be made within the revised LMP is important. The revised LMP will represent decisions that are strategic in nature but will not make site-specific project decisions and will not dictate the day-to-day administrative activities needed to carry on the Forest Service's internal operations. Although the authorization of project-level activities will be based on the guidance and direction contained in the revised LMP, analysis will occur through subsequent project-specific National Environmental Policy Act (NEPA) analysis and decision-making.

The revised LMP will provide broad, strategic guidance designed to supplement, not replace, overarching laws and regulations. Though strategic guidance will be provided, no decisions will be made regarding the management of individual roads or trails, such as those that might be associated with a travel management plan under 36 CFR 212. Some issues (e.g., hunting regulations), although important, are beyond the authority or control of the National Forest System and will not be considered. No decision regarding oil and gas leasing availability will be made, though standards will be brought forward or developed that would serve as mitigation should an availability decision be necessary in the future.

Purpose and Need and Preliminary Need for Change

According to the National Forest Management Act (NFMA), LMPs are to be revised on a 10- to 15-year cycle. The purpose and need for revising the current LMP is (1) the LMP is over 35 years old, (2) since the LMP was approved in 1986, there have been changes in economic, social, and ecological conditions, new policies and priorities, and new information based on monitoring and scientific research, and (3) to address the identified need for change to the existing LMP (summarized below). Extensive public and employee involvement and science-based evaluations have helped to identify the need for change to the existing LMP.

The complete description of the preliminary need for change is available for review on the plan revision website at: www.fs.usda.gov/main/mantilasal/landmanagement/planning. The needs for change have been organized into four topics:

1. Legal and Regulatory Environment

There is a need to change the current LMP to bring it into compliance with

the law, regulation, and policy.

Examples include the need to revise the plan every 15 years (NFMA 16 U.S.C. 1604(i)); there is a need to identify lands not suitable for timber production (NFMA 16 U.S.C. 1604(k)); there is a need to inform the LMP with the best available scientific information (2012 Planning Rule at 219.3).

2. Resource Management Themes

There is a need to change the current LMP to address numerous resource management themes identified by monitoring; by trends described in the assessment; and by public, cooperating agency, and tribal comments. Seven themes were identified: (1) Recreation Management; (2) Access and Transportation Infrastructure; (3) Watershed Health; (4) Forest Vegetation Management; (5) Rangeland Health; (6) Terrestrial and Aquatic Species Habitats; and (7) Energy and Minerals Management.

3. Social and Environmental Conditions

There is a need to change the current LMP to address social and environmental conditions that have the potential to affect the National Forest. These items may not be under the agency's direct control but may influence our ability to effectively carry out our mission. Six conditions have been identified: (1) Areas of Tribal Importance: Maintain Tribal partnerships to protect traditional properties and uses; (2) Climate: Monitor effect of changing conditions on critical resources; (3) Cultural and Historic Resources: Avoid destabilizing and destroying sites by surveying and monitoring; (4) Invasive Species: Mitigate establishment and spread through treatment and monitoring; (5) Wildfire: Protect human health and safety while managing natural fire; and (6) Wildlife: Provide conditions to maintain populations while managing for multiple uses.

4. Topics the New LMP Will Not Cover

A revised LMP does not commit the Manti-La Sal National Forest to any site-specific action, does not change boundaries set by legislation or rulemaking, and does not affect valid existing rights.

The preliminary need to change information has led to development of the "Proposal to Revise the Land Management Plan." Public review and comments on these documents will help the Manti-La Sal National Forest's responsible official and planning team refine the need to change the LMP and develop a proposed revised LMP that will be analyzed in a draft EIS.

Proposed Action

The proposed action is to revise the current LMP to address the above-identified needs for change to the existing LMP. Alternatives to the proposed action will be developed to address the significant issues that will be identified through scoping. In response to the above needs for change, a preliminary draft LMP has been developed. This more fully developed description of the proposed action is available for review at: www.fs.usda.gov/main/mantilasal/landmanagement/planning.

Lead and Cooperating Agencies

The Manti-La Sal National Forest is the lead agency for the environmental analysis process during the revision of the LMP. The following entities have been formally identified as cooperating agencies: Carbon, Grand, Juab, San Juan, Sanpete, Sevier, and Utah counties in Utah; Montrose County in Colorado; the State of Utah Public Lands Policy Coordination Office; Juab, Price River, San Juan, Sanpete, San Rafael, and Sevier Conservation Districts; Town of Castle Valley; cities of Monticello and Blanding; and the National Park Service. No formal agreements exist with Native American Tribes, but they are treated like cooperators because of their sovereign status.

Responsible Official

Ryan Nehl, Forest Supervisor, Manti-La Sal National Forest

Scoping Comments and the Objection Process

This notice of intent initiates the scoping process which guides the development of the EIS. Written comments received in response to this notice will be analyzed to complete the identification of the need for change to the existing LMP, further develop the proposed action (preliminary draft LMP) and identify potential significant issues. Significant issues will, in turn, form the basis for developing alternatives to the proposed action.

Reviewers should provide comments at such times and in such a manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments are best provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. Comments received in response to this notice, including the names and addresses of persons and organizations who comment, will be part of the public record. Comments submitted anonymously will be accepted and considered, however, they

will not be used to establish standing for the objection process. Additionally, anonymous comments will not provide the Manti-La Sal National Forest with the ability to provide the respondent with subsequent environmental documents.

For information on when public meetings will be scheduled for refining the proposed action and identifying possible alternatives to the proposed action, refer to the website: www.fs.usda.gov/main/mantilasal/landmanagement/planning.

The decision to approve the revised LMP for the Manti-La Sal National Forest will be subject to the objection process identified in 36 CFR 219 subpart B (219.50 to 219.62). According to 36 CFR 219.53(a), parties eligible to file an objection are individuals and entities who have submitted substantive formal comments related to plan revision during the opportunities provided for public comment during the planning process. The burden is on the objector to demonstrate compliance with requirements for objections (36 CFR 219.53).

Applicable Planning Rule

Preparation of the revised LMP for the Manti-La Sal National Forest began with the publication of a notice of assessment initiation in the **Federal Register** on July 29, 2016 (81 FR 49925) and was initiated under the planning procedures contained in the 2012 Planning Rule (36 CFR 219 (2012)).

Dated: August 20, 2021.

Barnie Gyant,

Associate Deputy Chief, National Forest System.

[FR Doc. 2021-18309 Filed 8-24-21; 8:45 am]

BILLING CODE 3411-15-P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Arkansas Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a virtual (online) meeting Friday, September 10, 2021 at 1:00 p.m. Central Time. The purpose of the meeting is for the Committee to discuss civil rights concerns related to IDEA compliance and implementation in Arkansas schools.

DATES: The meeting will be held on Friday, September 10, 2021 at 1 p.m. Central time.

Web Access (audio/visual): Register at: <https://bit.ly/3yD6dak>.

Phone Access (audio only): 800-360-9505, Access Code 199 973 2023.

FOR FURTHER INFORMATION CONTACT:

Melissa Wojnaroski, Designated Federal Officer, at mwojnaroski@usccr.gov or (202) 618-4158.

SUPPLEMENTARY INFORMATION: Members of the public may join online or listen to this discussion through the above call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1-800-877-8339 and providing the Service with the conference call number and conference ID number.

Members of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Melissa Wojnaroski at mwojnaroski@usccr.gov.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via www.facadatabase.gov under the Commission on Civil Rights, Arkansas Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, <http://www.usccr.gov>, or may contact the Regional Programs Unit at the above email or street address.

Agenda

- I. Welcome & Roll Call
- III. Committee Discussion: IDEA Compliance and Implementation in Arkansas Schools
- IV. Next Steps
- V. Public Comment
- VI. Adjournment

Dated: August 19, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021-18250 Filed 8-24-21; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Vehicle Inventory and Use Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 15, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Commerce.

Title: Vehicle Inventory and Use Survey.

OMB Control Number: 0607-0892.

Form Number(s): TC-9501, TC-9502.

Type of Request: Regular submission, Request for a Reinstatement, with change of a previously approved collection.

Number of Respondents: 150,000.

Average Hours per Response: 65 minutes.

Burden Hours: 162,500.

Needs and Uses: The Census Bureau requests clearance of the forms that will be used to conduct the 2021 Vehicle Inventory and Use Survey (VIUS). Our sponsor for this joint statistical project is the Bureau of Transportation Statistics. The 2021 VIUS will collect data to measure the physical and operational characteristics of trucks from a sample of approximately 150,000 trucks. These trucks are selected from more than 190 million private and commercial trucks registered with motor vehicle departments in the 50 states and the District of Columbia. The Census Bureau will collect the data for the sampled trucks from the registered truck owners. We will publish physical and operational vehicle characteristics estimates for each state, the District of Columbia, and the United States. A public-use file will be released that will contain unaggregated microdata information for each truck for which data are collected. The records on the

public-use file will be masked to avoid the disclosure of a sampled truck or owner.

The VIUS is the only comprehensive source of information on the physical and operational characteristics of the Nation's truck population. The VIUS provides unique, essential information for government, business, and academia. The U.S. Department of Transportation, State Departments of Transportation, and transportation consultants compliment VIUS microdata as extremely useful and flexible to meet constantly changing requests that cannot be met with predetermined tabular publications. The planned microdata file will enable them to cross-tabulate data to meet their needs.

Federal, state, and local transportation agencies use information from the VIUS for the analysis of safety issues, proposed investments in new roads and technology, truck size and weight issues, user fees, cost allocation, energy and environmental constraints, hazardous materials transport, and other aspects of the Federal-aid highway program. The Federal government uses information from the VIUS as an important part of the framework for: (1) The national investment and personal consumption expenditures component of the gross domestic product, (2) input-output tables, (3) economic development evaluation, (4) maintenance of vital statistics for prediction of future economic and transportation trends, (5) logistical requirements, (6) Metropolitan Planning Organization transportation development requirements, and (7) regulatory impact analysis.

Business and academia use information from the VIUS to assess intermodal use, conduct market studies and evaluate market strategies, assess the utility and cost of certain types of equipment, and calculate the longevity of products. VIUS information also is used to determine fuel demands and needs for fuel efficiency, to produce trade publication articles and special data arrays, and to assess the effects of deregulation on the restructuring of the transportation industries.

Affected Public: Individuals or households; Business or other for-profit organizations.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., section 131 and 182.

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

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0892.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–18232 Filed 8–24–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–34–2021]

Foreign-Trade Zone (FTZ) 33—Pittsburgh, Pennsylvania, Authorization of Production Activity, Swagelok Company (Finished Bar Stock), Koppel, Pennsylvania

On April 22, 2021, Swagelok Company submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 33F, in Koppel, Pennsylvania.

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 23343, May 3, 2021). On August 20, 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 20, 2021.

Andrew McGilvray,
Executive Secretary.

[FR Doc. 2021–18280 Filed 8–24–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board Charter Renewal

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The Chief Financial Officer and Assistant Secretary of Commerce for Administration, with the concurrence of the General Services Administration, renewed the Charter for the United States Travel and Tourism Advisory Board on August 16, 2021.

DATES: The Charter for the United States Travel and Tourism Advisory Board was renewed on August 16, 2021.

FOR FURTHER INFORMATION CONTACT: Jennifer Aguinaga, the United States Travel and Tourism Advisory Board, Room 10003, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: 202–482–2404, email: TTAB@trade.gov.

SUPPLEMENTARY INFORMATION: This Notice is published pursuant to the Federal Advisory Committee Act, as amended (FACA), 5 U.S.C., App., § 9(c). It has been determined that the Committee is necessary and in the public interest. The Committee was established pursuant to Commerce's authority under 15 U.S.C. 1512, established under the FACA, as amended, 5 U.S.C. App., and with the concurrence of the General Services Administration. The Committee provides advice to the Secretary on government policies and programs that affect the U.S. travel and tourism industry.

Jennifer Aguinaga,

Designated Federal Officer, U.S. Travel and Tourism Advisory Board.

[FR Doc. 2021–18277 Filed 8–24–21; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–073/C–570–074]

Common Alloy Aluminum Sheet From the People's Republic of China; Antidumping and Countervailing Duty Orders: Notice of Covered Merchandise Referral

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

SUMMARY: Pursuant to the Enforce and Protect Act of 2015 (EAPA), the Department of Commerce (Commerce) received a covered merchandise referral from U.S. Customs and Border Protection (CBP) in connection with a CBP EAPA investigation concerning the antidumping and countervailing duty (AD/CVD) orders on common alloy aluminum sheet from the People's Republic of China. In accordance with the EAPA, Commerce intends to determine whether the merchandise subject to the referral is covered by the

scope of the orders and promptly to transmit its determination to CBP. Commerce is providing notice of the referral and inviting participation from interested parties.

DATES: Applicable August 25, 2021.

FOR FURTHER INFORMATION CONTACT: Preston Cox or Yang Jin Chun, AD/CVD Operations Office VI, Enforcement & Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5041 or (202) 482–5760, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 2016, the Trade Facilitation and Trade Enforcement Act of 2015 was signed into law, which contains Title IV—Prevention of Evasion of Antidumping and Countervailing Duty Orders (short title “Enforce and Protect Act of 2015” or “EAPA”) (Pub. L. 114–125, 130 Stat. 122, 155, Feb. 24, 2016). Effective August 22, 2016, section 421 of the EAPA added section 517 to the Tariff Act of 1930, as amended (the Act), which establishes a formal process for CBP to investigate allegations of the evasion of AD/CVD orders. Section 517(b)(4)(A) of the Act provides a procedure by which if, during the course of an EAPA investigation, CBP is unable to determine whether the merchandise at issue is covered merchandise within the meaning of section 517(a)(3) of the Act, it shall refer the matter to Commerce to make such a determination. Section 517(a)(3) of the Act defines covered merchandise as merchandise that is subject to an antidumping duty order issued under section 736 of the Act or a countervailing duty order issued under section 706 of the Act. Section 517(b)(4)(B) of the Act states that Commerce, after receiving a covered merchandise referral from CBP, shall determine whether the merchandise is covered merchandise and promptly transmit its determination to CBP. The Act does not establish a deadline within which Commerce must issue its determination.

On May 13, 2021, Commerce received a covered merchandise referral from CBP regarding CBP EAPA Investigation No. 7469¹ which concerns the AD and

CVD orders on common alloy aluminum sheet from the People’s Republic of China (China).² CBP explained that Texarkana Aluminum, Inc. (TKA) alleged that AA Metals, Inc. (AA Metals) imported Chinese-origin aluminum sheet into the United States that was transshipped through Turkey after minor processing, and falsely declared it as Turkish-origin.³ CBP stated that TKA alleged that AA Metals imported Chinese aluminum sheet that was re-rolled to a thinner thickness in Turkey by Turkish producers PMS Metal Profil Alüminyum San. ve Tic. A.Ş. (PMS) and Teknik Alüminyum Sanayi A.Ş. (Teknik).⁴ CBP’s Office of Trade initiated an EAPA investigation on June 30, 2020, based on the evidence in the allegation submitted by TKA that reasonably suggested that AA Metals entered aluminum sheet into the customs territory of the United States by means of evasion.

CBP informed Commerce that CBP is unable to determine whether the merchandise at issue is covered merchandise due to the third country processing in two scenarios: (1) Chinese-origin aluminum sheet of a thickness a little greater than covered by the scope re-rolled in Turkey to a thickness covered by the scope; and (2) Chinese-origin aluminum sheet of a thickness covered by the scope re-rolled in Turkey to a thickness covered by the scope. CBP further informed Commerce that AA Metals argues that the Chinese-origin aluminum sheet further processed in Turkey is not subject to the *Orders*.⁵

Notification to Interested Parties

Commerce is hereby notifying interested parties that it has received the covered merchandise referral referenced above, it will begin new segments of the proceedings, and intends to issue a determination regarding whether the merchandise subject to the referral is covered merchandise within the meaning of section 517(a)(3) of the Act. Additionally, Commerce intends to provide interested parties with the opportunity to participate in these segments of the proceedings, including

document and any supporting documents on Enforcement and Compliance’s Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS) within five days of publication of this notice.

² See *Common Alloy Aluminum Sheet from the People’s Republic of China: Antidumping Duty Order*, 84 FR 2813 (February 8, 2019); *Common Alloy Aluminum Sheet from the People’s Republic of China: Countervailing Duty Order*, 84 FR 2157 (February 6, 2019) (collectively, the *Orders*).

³ See CBP’s EAPA 7469 Letter at 1–2.

⁴ *Id.* at 2.

⁵ *Id.* at 2–3.

through the submission of comments, and, if appropriate, new factual information and verification. Specifically, Commerce will notify parties on the segment-specific service lists for these segments of the proceedings of a schedule for comments. In addition, Commerce may request factual information from any person to assist in making its determination and may verify submissions of factual information, if Commerce determines that such verification is appropriate. Commerce intends to issue a final determination within 120 days of the publication of this notice (this deadline may be extended if it is not practicable to complete the final determination within 120 days) and will promptly transmit its final determination to CBP in accordance with section 517(b)(4)(B) of the Act.

Commerce may consider conducting a separate anti-circumvention inquiry regarding the merchandise described in CBP’s covered merchandise referral, if parties submit the necessary information addressing the criteria for an anti-circumvention inquiry, in accordance with section 781 of the Act. Interested parties are requested to file such comments and information onto the record of this proceeding within 30 days of the publication of this notice in the **Federal Register**.

Parties are also hereby notified that this may be the only notice that Commerce intends to publish in the **Federal Register** concerning this covered merchandise referral. Interested parties that wish to participate in these segments of the proceedings, and receive notice of the final determination, must submit their letters of appearance as discussed below. Further, any party desiring access to business proprietary information in these segments of the proceedings must file an application for access to business proprietary information under administrative protective order (APO), as discussed below.

Finally, we note that covered merchandise referrals constitute a new type of segment of a proceeding at Commerce, and therefore Commerce intends to develop its practice and procedures in this area as it gains more experience.

Scope of the Orders

The merchandise covered by these orders is aluminum common alloy sheet (common alloy sheet), which is a flat-rolled aluminum product having a thickness of 6.3 mm or less, but greater than 0.2 mm, in coils or cut-to-length, regardless of width. Common alloy

¹ See Letter from CBP, “Re: Covered Merchandise Referral Request for EAPA Investigation 7469, Imported by AA Metals, Inc.: Antidumping and Countervailing Duty Orders on Common Alloy Aluminum Sheet from the People’s Republic of China,” dated May 13, 2021 (CBP’s EAPA 7469 Letter). Commerce intends to make available this

sheet within the scope of the orders includes both not clad aluminum sheet, as well as multi-alloy, clad aluminum sheet. With respect to not clad aluminum sheet, common alloy sheet is manufactured from a 1XXX-, 3XXX-, or 5XXX-series alloy as designated by the Aluminum Association. With respect to multi-alloy, clad aluminum sheet, common alloy sheet is produced from a 3XXX-series core, to which cladding layers are applied to either one or both sides of the core.

Common alloy sheet may be made to ASTM specification B209–14, but can also be made to other specifications. Regardless of specification, however, all common alloy sheet meeting the scope description is included in the scope. Subject merchandise includes common alloy sheet that has been further processed in a third country, including but not limited to annealing, tempering, painting, varnishing, trimming, cutting, punching, and/or slitting, or any other processing that would not otherwise remove the merchandise from the scope of the orders if performed in the country of manufacture of the common alloy sheet.

Excluded from the scope of the orders is aluminum can stock, which is suitable for use in the manufacture of aluminum beverage cans, lids of such cans, or tabs used to open such cans. Aluminum can stock is produced to gauges that range from 0.200 mm to 0.292 mm, and has an H–19, H–41, H–48, or H–391 temper. In addition, aluminum can stock has a lubricant applied to the flat surfaces of the can stock to facilitate its manufacture of beverage cans. Aluminum can stock is properly classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7606.12.3045 and 7606.12.3055.

Where the nominal and actual measurements vary, a product is within the scope if application of either the nominal or actual measurement would place it within the scope based on the definitions set for the above.

Common alloy sheet is currently classifiable under HTSUS subheadings 7606.11.3060, 7606.11.6000, 7606.12.3090, 7606.12.6000, 7606.91.3090, 7606.91.3095, 7606.91.6080, 7606.91.6095, 7606.92.3090, 7606.92.3035, 7606.92.6080, and 7606.92.6095. Further, merchandise that falls within the scope of the orders may also be entered into the United States under HTSUS subheadings 7606.11.3030, 7606.12.3015, 7606.12.3025, 7606.12.3030, 7606.12.3035, 7606.91.3055, 7606.91.3060, 7606.91.6040, 7606.91.6055,

7606.92.3025, 7606.92.3060, 7606.92.6040, 7606.92.6055, and 7607.11.9090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the orders is dispositive.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance (E&C)'s Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.⁶ An electronically filed document must be received successfully in its entirety by the applicable deadline. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information.⁷ Each submission must be placed on the record of the segment of the proceeding for each order, *i.e.*, for the AD order (A–570–073) and the CVD order (C–570–074).

Letters of Appearance and Administrative Protective Order

Interested parties that wish to participate in these segments of the proceedings and to be added to the public service lists for these segments of the proceedings must file a letter of appearance in accordance with 19 CFR 351.103(d)(1), with one exception: The parties to EAPA investigation 7469 publicly identified by CBP in the covered merchandise referral referenced above (TKA and AA Metals)⁸ are not required to submit a letter of appearance, and will be added to the public service list for these segments of the proceedings by Commerce.

Commerce placed an APO on the record on August 18, 2021,⁹ and

⁶ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011), as amended in *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on help using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

⁷ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

⁸ See CBP's EAPA 7496 Letter at 5.

⁹ See Memorandum, "Request for Establishment of Administrative Protective Order: Antidumping and Countervailing Duty Orders on Common Alloy Aluminum Sheet from the People's Republic of China: (A–570–073/C–570–074)," dated August 18, 2021.

established the APO service lists for use in these segments. Commerce intends to place the covered merchandise referral letter on the records of these segments in ACCESS within five days of publication of this notice.

Interested parties must submit applications for disclosure under the APO in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to these segments of the proceedings, with one exception: APO applicants representing the parties that have been identified by CBP as an importer in the covered merchandise referral (referenced above) are exempt from the additional filing requirements for importers pursuant to 19 CFR 351.305(d).

Dated: August 18, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021–18282 Filed 8–24–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Final Results of Antidumping Duty Administrative Review; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) determines that the sole mandatory respondent made sales of stainless steel bar (SS Bar) from India below normal value during the period of review (POR) February 1, 2019, through January 31, 2020.

DATES: Applicable August 25, 2021.

FOR FURTHER INFORMATION CONTACT:

Konrad Ptaszynski, 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) 482–6187.

SUPPLEMENTARY INFORMATION:

Background

On February 24, 2021, Commerce published in the **Federal Register** the *Preliminary Results* of the 2019–2020 administrative review of the antidumping duty order on SS Bar from India.¹ We invited interested parties to

¹ See *Stainless Steel Bar from India: Preliminary Results of Antidumping Duty Administrative*

comment on the *Preliminary Results* and on March 26, 2021, Venus Wire Industries Pvt. Ltd., Hindustan Inox, Precision Metals and Sieves Manufacturers (India) Pvt. Ltd. (collectively, the Venus Group) submitted a timely filed case brief.² On April 2, 2021, the petitioners³ submitted a timely filed rebuttal brief.⁴

Scope of the Order

The products covered by the antidumping duty Order⁵ are SS Bar. 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 made available to the public electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/>.

Rate for Non-Selected Respondent

We preliminarily applied a rate based on the rate calculated for the only company not selected for individual examination, Ambica Steels Limited (Ambica), in the 2018–2019 administrative review (*i.e.*, 0.00). No party commented on the *Preliminary Results* regarding the rate for the non-selected company. Therefore, for these final results, we continue to assign 0.00 percent to Ambica.

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 Results*.

Use of Adverse Facts Available

Pursuant to sections 776(a) and 776(b) of the Act, Commerce continues to base the Venus Group's dumping margin on total AFA because it failed to provide information requested by the applicable deadlines. For the reasons explained in the Issues and Decision Memorandum, we have continued to apply an AFA rate of 30.92 percent to the Venus Group.

Final Results of Administrative Review

As a result of this administrative review, Commerce determines that the following dumping margin exists for the period February 1, 2019, through January 31, 2020:

Producer/exporter	Dumping margin (percent)
Precision Metals, and its affiliated companies including Hindustan Inox, Precision Metals and Sieves Manufacturers (India) Pvt. Ltd	30.92
Rate Applicable to the Following Non-Selected Company: Ambica Steels Limited	0.00

Disclosure

Normally, Commerce discloses the calculations performed in connection with final results of an administrative review 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). However, because Commerce applied total AFA to the only mandatory respondent under review in accordance with section 776 of the Act, there are no calculations to disclose to any interested party.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. Commerce will instruct CBP to apply an *ad valorem* assessment rate of 30.92 percent to all entries of subject merchandise during the POR from the Venus Group. Because the rate assigned to Ambica is zero,⁷ Commerce will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.⁸

Commerce intends to issue assessment instructions to CBP no

earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication in the **Federal Register** of this notice for all shipments of SS Bar entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section

Review; 2019–2020; 86 FR 11235 (February 24, 2021), and accompanying Preliminary Decision Memorandum (*Preliminary Results*).

² See Venus Group's Letter, "Antidumping Duty Investigation of Stainless Steel Bar from India—Venus Group Case Brief," dated March 26, 2021.

³ Carpenter Technology Corporation, Crucible Industries LLC, Electralloy, a Division of G.O. Carlson, Inc., North American Stainless, Universal Stainless & Alloy Products, Inc., and Valbruna Slater Stainless, Inc. (collectively, the petitioner).

⁴ See Petitioner's Letter, "Stainless Steel Bar from India Petitioners' Rebuttal Brief," dated April 2, 2021.

⁵ See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995) (*Order*).

⁶ See Memorandum, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Stainless Steel Bar from India; 2019–2020," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁷ In the *Preliminary Results*, Commerce inadvertently stated ". . . we will instruct CBP to apply an *ad valorem* assessment rate of 30.92 percent to all entries of subject merchandise during the POR from the Venus Group and Ambica." See

Preliminary Results. We intended to state that we will instruct CBP to apply an *ad valorem* assessment of 30.92 percent to the Venus Group, and instruct CBP to liquidate the appropriate entries for Ambica without regard to antidumping duties.

⁸ 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).

751(a)(2) of the Act: (1) The cash deposit rates for the companies subject to this review will be equal to the dumping margin established in the final results of the review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a prior completed segment of this proceeding, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 12.45 percent, the all-others rate established in the less-than-fair-value investigation for this proceeding.⁹ These cash 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 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.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an 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(a)(3), which continues to govern business proprietary information in this segment of proceeding. 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

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 19, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix

Issues and Decision Memorandum

- I. Summary
- II. List of Issues
- III. Background
- IV. Scope of the Order
- V. Use of Facts Otherwise Available and Adverse Inferences
- VI. Analysis of Comments
 - Comment 1: Whether Commerce Should Continue to Apply Total Adverse Facts Available to the Venus Group
 - Comment 2: Whether Commerce Should Continue to Apply the Rate Applied to Mukand in the 2010–2011 the Administrative Review as the AFA Rate to the Venus Group
- VII. Recommendation

[FR Doc. 2021–18281 Filed 8–24–21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

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

DATES: Applicable August 25, 2021.

SUMMARY: The Department of Commerce (Commerce) hereby publishes a list of scope rulings and anti-circumvention determinations made during the period April 1, 2021, through June 30, 2021. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Marcia E. Short, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–1560.

SUPPLEMENTARY INFORMATION:

Background

Commerce regulations provide that it will publish in the **Federal Register** a list of scope rulings on a quarterly basis.¹ Our most recent notification of scope rulings was published on May 28, 2021.² This current notice covers all scope rulings and anti-circumvention determinations made by Enforcement

and Compliance between April 1, 2021, and June 30, 2021.

Scope Rulings Made April 1, 2021 Through June 30, 2021

People's Republic of China (China)

A–570–112 and C–570–113: Certain Collated Steel Staples From China

Requestor: Zhejiang Best Nail Industrial Co., Ltd. Eleven models of insulated staples (JY01–01–JY11–01) are not covered by the scope of the antidumping or countervailing duty orders on certain collated steel staples from China because they are collated using plastic insulators which creates a distinct space between each staple in place of glue, adhesive, or paper tape; April 5, 2021.

A–570–979 and C–570–980: Certain Crystalline Silicon Photovoltaic Cells From China

Requestor: The Solaria Corporation (Solaria). Solaria's PowerXT photovoltaic cells and modules manufactured in the Republic of Korea (Korea) are included in the scope of the antidumping duty order on solar cells from China and the antidumping duty order on solar products from Taiwan because Solaria's solar cells are completed in China and Taiwan with a functioning p/n junction and imported into Korea for module assembly, a process that has already been determined to not substantially transform a cell to change its country of origin; April 8, 2021.

A–570–967 and C–570–968: Aluminum Extrusions From China

Requestor: Reflection Window + Wall, LLC. Four window wall kits are not covered by the scope of the antidumping and countervailing duty orders on aluminum extrusions from China because they meet the exclusion criteria for finished goods kits; April 26, 2021.

A–570–900: Diamond Sawblades and Parts Thereof From China

Requestor: Customs and Border Protection (CBP) (Enforcement and Protect Act (EAPA) referral). Diamond sawblades produced in Canada by Protech Diamond Tools, Inc. (Protech) with Chinese cores and Chinese segments, which are: (1) Exported by Protech and imported by Gogo International, Inc. (Gogo); or (2) exported by Gogo are covered merchandise subject to the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from China; diamond sawblades produced in Canada by Protech with Chinese cores

⁹ See *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Bar from India*, 59 FR 66915, 66921 (December 28, 1994).

¹ See 19 CFR 351.225(o).

² See *Notice of Scope Rulings*, 86 FR 28751 (May 28, 2021).

and non-Chinese segments, which are: (1) Exported by Protech and imported by Gogo; or (2) exported by Gogo are covered merchandise subject to the order; diamond sawblades produced in Canada by Protech with non-Chinese cores or Chinese segments, which are: (1) Exported by Protech and imported by Gogo; or (2) exported by Gogo are not covered merchandise and not subject to the order, provided that CBP determines that the certification and/or documentation requirements identified in message 1007402 dated 01/07/2021 are met; April 27, 2021.

A-570-090 and C-570-091: Certain Steel Wheels 12 to 16.5 Inches in Diameter From China

Requestor: The Wheel Source, Inc. (Wheel Source). Certain passenger vehicle wheels which Wheel Source imports are outside the scope of the antidumping and countervailing duty orders because they have: (1) Different bolt patterns; (2) positive offsets; (3) different pilot diameters; and (4) lower load ratings that make them unsuitable for use on trailers or towable equipment. Certain other passenger vehicle wheels which Wheel Source imports are outside the scope of the antidumping and countervailing duty orders primarily because: (1) The expectations of the ultimate purchasers; (2) the ultimate use of the product; and (3) the manner in which the product is advertised and displayed are distinct from subject merchandise; April 30, 2021.

A-570-090 and C-570-091: Certain Steel Wheels 12 to 16.5 Inches in Diameter From China

Requestor: U.S. Wheel Corp (U.S. Wheel). Certain passenger vehicle and light truck rims and discs imported by U.S. Wheel are outside the scope of the antidumping and countervailing duty orders because they have: (1) Larger offsets; (2) different hub bore sizes; (3) multiple bolt patterns; and/or (4) lower load ratings that make them unsuitable for use on trailers or towable equipment; May 3, 2021.

A-570-947 and C-570-948: Certain Steel Grating From China

Requestor: Weihai Gaosai Metal Product Ltd. The steel decking of the tribar truss floor in the farrowing flooring system is covered by the scope of the antidumping and countervailing duty orders on certain steel grating from China because it has physical characteristics consistent with subject merchandise. However, the other components of the farrowing flooring system and the pig farrowing crate are

not covered by the order because those components are not steel grating; May 11, 2021.

A-570-947 and C-570-948: Steel Grating From China

Requestor: Ikadan Systems USA Inc. Ductile cast iron flooring is not covered by the scope of the antidumping and countervailing duty orders on steel grating from China. This is because the orders apply only to steel grating, not cast iron, and because the cast iron grating is made from a mold forming a solid, one-piece grate, while the orders apply only to grating formed by two or more pieces of steel that are connected through welding, riveting, or otherwise; May 13, 2021.

A-570-900: Diamond Sawblades and Parts Thereof From China

Requestor: CBP (EAPA referral) and Lyke Industrial Tool, LLC. Diamond Sawblades exported by Like Tools Co. Ltd. and imported by Lyke Industrial Tool, LLC are covered by the scope of the antidumping duty order on diamond sawblades and parts thereof from China because Commerce determined that they are not substantially transformed, and Like Tools Co. Ltd. was not able to demonstrate that the cores and segments were joined in Thailand; June 3, 2021.

A-570-112 and C-570-113: Certain Collated Steel Staples From China

Requestor: Stanley Black & Decker, Inc. The model DRS18100 collated insulated staple is not covered by the scope of the antidumping or countervailing duty order on certain collated steel staples from China because it is collated using plastic insulators which creates a distinct space between each staple in place of glue, adhesive or paper tape; June 8, 2021.

A-570-106 and C-570-107: Wooden Cabinets and Vanities and Components Thereof From China

Requestor: Homewerks Worldwide, LLC. Medicine cabinets with moveable shelves (model numbers: #HF01-MAT-WH and #HF01-MAT-ES) imported from China are outside the scope of the antidumping and countervailing duty orders; June 11, 2021.

A-570-979 and C-570-980: Crystalline Silicon Photovoltaic Cells From China

Requestor: ET Solar, Inc. (ET Solar). Commerce upheld the substantial transformation analysis used in its preliminary scope determination to conclude that certain solar modules imported by ET Solar from Vietnam containing unfinished solar wafers imported from China (*i.e.*, silicon wafers

with p/n junctions imparted in China) are within the scope of the antidumping and countervailing duty orders on solar cells from China. Commerce continued to find that further processing undertaken in Vietnam on unfinished solar cells from China was insufficient to transform them from Chinese-origin merchandise to Vietnamese-origin merchandise; June 15, 2021.

A-570-831: Fresh Garlic From China

Requestor: RJ Van Drunen & Sons Inc. Commerce analyzed factors provided in 19 CFR 351.225(d) and 351.225(k)(1) and determined that individually quick frozen one-eighth-inch diced garlic (diced garlic) is not covered by the scope of the antidumping duty order on fresh garlic from China because the description of the merchandise from the Petition, the investigation, and prior scope determinations are dispositive in determining that the diced garlic at issue is not within the scope of the Order. Therefore, Commerce did not analyze the additional factors provided in 19 CFR 351.225(k)(2); June 28, 2021.

Taiwan

A-583-853: Certain Crystalline Silicon Photovoltaic Products From Taiwan

Requestor: Solaria. Solaria's PowerXT photovoltaic cells and modules manufactured in Korea are included in the scope of the antidumping duty order on solar cells from China and the antidumping duty order on solar products from Taiwan because Solaria's solar cells are completed in China and Taiwan with a functioning p/n junction and imported into Korea for module assembly, a process that has already been determined to not substantially transform a cell to change its country of origin; April 8, 2021.

Anti-Circumvention Determinations Made April 1, 2021 Through June 30, 2021

China

A-570-026 and C-570-027: Certain Corrosion-Resistant Steel Products (CORE) From China

Self-initiated: CORE completed in Malaysia from hot-rolled steel or cold-rolled steel substrate manufactured in China, and subsequently exported to the United States is circumventing the antidumping and countervailing duty orders on CORE from China. CORE produced in South Africa is not circumventing the orders; June 1, 2021.

Taiwan

A-583-856: Certain Corrosion Resistant Steel Products (CORE) From Taiwan

Self-initiated: CORE completed in Malaysia from hot-rolled steel or cold-rolled steel substrate manufactured in Taiwan, and subsequently exported to the United States is circumventing the antidumping order on CORE from Taiwan; June 1, 2021.

Preliminary Determinations Made April 1, 2021, Through June 30, 2021

China

A-570-067 and C-570-068: Forged Steel Fittings From China

Requestor: Midwest Diversified Technologies, Inc. Fifteen self-drilling anchor bolt systems couplers are not covered by the scope of the antidumping duty and countervailing duty orders on forged steel fittings from China because they are not designed to connect pipes and cannot convey fluid at high pressure; May 17, 2021.

Notification to Interested Parties

Interested parties are invited to comment on the completeness of this list of scope inquiries and anti-circumvention determinations made during the period April 1, 2021, through June 30, 2021. Any comments should be submitted to James Maeder, Deputy Assistant Secretary for AD/CVD Operations, Enforcement and Compliance, International Trade Administration, via email to CommerceCLU@trade.gov.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: August 20, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021-18291 Filed 8-24-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XB363]

Marine Mammals; File No. 25740

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Center for Coastal Studies, 5 Holway Avenue, P.O. Box 1036, Provincetown, MA 02657 (Responsible Party: Richard

Delaney), has applied in due form for a permit to conduct research on 23 species of marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before September 24, 2021.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 25740 from the list of available applications. These documents are also available upon written request via email to NMFS.Pr1Comments@noaa.gov.

Written comments on this application should be submitted via email to NMFS.Pr1Comments@noaa.gov. Please include File No. 25740 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to NMFS.Pr1Comments@noaa.gov. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT:

Shasta McClenahan, Ph.D., or Amy Hapeman, (301) 427-8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222-226).

The applicant proposes to conduct research on North Atlantic right whales (*Eubalaena glacialis*; NARW) in U.S. and international waters of the North Atlantic Ocean. The objectives of the research are to collect data to inform the development and implementation of methods to mitigate the threat of entanglement, ship strike, and habitat degradation, and to collect basic data on NARW and their ecology. Four species of non-listed pinnipeds and 18 species of cetaceans may be unintentionally harassed and opportunistically studied during NARW research activities including endangered blue whales (*Balaenoptera musculus*); bowhead whales (*Balaena mysticetus*); fin whales (*B. physalus*); sei whales (*B. borealis*); and sperm whales (*Physeter microcephalus*). Marine mammals may be taken during vessel and aerial surveys, including an unmanned aircraft

system, for counts, photo-identification, photography, videography, behavioral observations, collection of sloughed skin or feces, underwater photography, and zooplankton sampling. See the application for complete numbers of animals requested by species, life stage, and procedure. The permit is requested for 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 19, 2021.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021-18274 Filed 8-24-21; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Fee Deficiency Submissions

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

ACTION: Notice of information collection; request for comment.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on the extension and revision of an existing information collection: 0651-0070 (Fee Deficiency Submissions). The purpose of this notice is to allow 60 days for public comment preceding submission of the information collection to OMB.

DATES: To ensure consideration, comments regarding this information collection must be received on or before October 25, 2021.

ADDRESSES: Interested persons are invited to submit written comments by any of the following methods. Do not submit Confidential Business Information or otherwise sensitive or protected information.

• *Email:* InformationCollection@uspto.gov. Include “0651–0070 comment” in the subject line of the message.

• *Federal Rulemaking Portal:* <http://www.regulations.gov>.

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

FOR FURTHER INFORMATION CONTACT:

Requests for additional information should be directed to Parikha Mehta, Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, by telephone at 571–272–3248, or by email at Parikha.Mehta@uspto.gov with “0651–0070 comment” in the subject line. Additional information about this information collection is also available at <http://www.reginfo.gov> under “Information Collection Review.”

SUPPLEMENTARY INFORMATION:

I. Abstract

Under section 10(b) of the Leahy-Smith America Invents Act (“Act”) (See Pub. L. 112–29, 125 Stat. 283 (2011)), eligible small entities shall receive a 50 percent fee reduction from the undiscounted fees for filing, searching, examining, issuing, appealing, and maintaining patent applications and patents. The Act further provides that micro entities shall receive a 75 percent fee reduction from the undiscounted fees for filing, searching, examining,

issuing, appealing, and maintaining patent applications and patents.

This information collection covers the submissions made by patent applicants and patentees to excuse small and micro entity fee payment errors, in accordance with the procedures set forth in 37 CFR 1.28(c) and 1.29(k). Specifically, 37 CFR 1.28(c) provides a procedure by which patent applicants and patentees may be excused for erroneous payments of fees in the small entity amount. 37 CFR 1.29(k) provides a procedure by which patent applicants and patentees may be excused for erroneous payments of fees in the micro entity amount.

Patent applicants and patentees who change their entity status may need to submit additional payments in order to have their applications associated with the correct category. It is possible for small or micro entity status to be established in good faith, and for a patent applicant or patentee to pay a fee as a small or micro entity in good faith, only to later discover that the entity status was established in error, or to later discover that, through error, the USPTO was not notified of a loss of status entitlement. The USPTO will excuse the error if a deficiency payment and other requirements are submitted in compliance with 37 CFR 1.28(c) or 1.29(k). Thus, this information collection is necessary so that patent applicants and patentees may pay the balance of fees due (*i.e.*, fee deficiency payment) when a fee was previously paid in error in a micro or small entity amount. The USPTO needs the

information to be able to process and properly record a fee deficiency payment to avoid questions arising later, either for the USPTO or for the applicant or patentee, as to whether the proper fees have been paid in the application or patent.

II. Method of Collection

The items in this information collection may be submitted online using the Patent Electronic Systems (EFS-Web or Patent Center), or on paper by either mail or hand delivery.

III. Data

OMB Control Number: 0651–0070.

Form Numbers: None.

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

Affected Public: Private Sector; individuals or households.

Estimated Number of Respondents: 2,000 respondents per year.

Estimated Number of Responses: 3,002 responses per year.

Estimated Time per Response: The USPTO estimates that the response time for activities related to Fee Deficiency Submissions will take the public approximately 2 hours to complete. This includes the time to gather the necessary information, create the document, and submit the completed information to the USPTO.

Estimated Total Annual Respondent Burden Hour: 6,004 hours.

Estimated Total Annual Respondent (Hourly) Cost Burden: \$2,401,600.

TABLE 1—TOTAL HOURLY BURDEN FOR PRIVATE SECTOR RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate ¹ (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1	Submissions Under 37 CFR 1.28(c)	1,455	1.5	2,183	2	4,366	\$400	\$1,746,400
2	Submissions Under 37 CFR 1.29(k)	485	1.5	728	2	1,456	400	582,400
Totals .....	.....	1,940	.....	2,911	.....	5,822	.....	2,328,800

¹ 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

TABLE 2—TOTAL HOURLY BURDEN FOR INDIVIDUALS OR HOUSEHOLDS RESPONDENTS

Item No.	Item	Estimated annual respondents	Responses per respondent	Estimated annual responses	Estimated time for response (hours)	Estimated burden (hour/year)	Rate ² (\$/hour)	Estimated annual respondent cost burden
		(a)	(b)	(a) × (b) = (c)	(d)	(c) × (d) = (e)	(f)	(e) × (f) = (g)
1	Submissions Under 37 CFR 1.28(c)	45	1.5	68	2	136	\$400	\$54,400
2	Submissions Under 37 CFR 1.29(k)	15	1.5	23	2	46	400	18,400
Totals .....	.....	60	.....	91	.....	182	.....	72,800

² 2019 Report of the Economic Survey, published by the Committee on Economics of Legal Practice of the American Intellectual Property Law Association (AIPLA); <https://www.aipla.org/detail/journal-issue/2019-report-of-the-economic-survey>. The USPTO uses the mean rate for attorneys in private firms which is \$400 per hour.

Estimated Total Annual Cost Burden (Non-Hourly): \$248.

There are no capital startup, maintenance, or operating fees are associated with this information collection. There are, however, postage costs associated with this information collection.

Although the USPTO prefers that the items in this information collection be submitted electronically, responses may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that 1% of the 3,002 responses will be submitted in the mail resulting in 30 mailed items. The USPTO estimates that the average postage cost for a mailed submission, using a Priority Mail 2-day flat rate legal envelope, will be \$8.25. Therefore, the USPTO estimates the total mailing costs for this information collection at \$248.

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

IV. Request for Comments

The USPTO is soliciting public comments to:

(a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility;

(b) Evaluate the accuracy of the Agency's estimate of the burden, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected; and

(d) Minimize the burden of the collection 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.

All comments submitted in response to this notice are a matter of public record. USPTO will include or summarize each comment in the request to OMB to approve this information collection. Before including an address, phone number, email address, or other personally identifiable information (PII) in a comment, be aware that the entire comment—including PII—may be made publicly available at any time. While you may ask in your comment to withhold PII from public view, USPTO cannot guarantee that it will be able to do so.

Kimberly Hardy,

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

[FR Doc. 2021-18231 Filed 8-24-21; 8:45 am]

BILLING CODE 3510-16-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2021-OS-0092]

Proposed Collection; Comment Request

AGENCY: Defense Counterintelligence and Security Agency, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Defense Counterintelligence and Security Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 25, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Counterintelligence and Security Agency, 27130 Telegraph Road, Quantico, VA 22134, ATTN: Ms.

Stepheny Fanning, or call 724-794-7765.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Personnel Security System Access Request (PSSAR) Form; DD Form 2962-2; OMB Control Number 0704-0542.

Needs and Uses: The information collection requirement is necessary for the Defense Information System for Security, Secure Web Fingerprint Transmission, and Defense Central Index of Investigations, which require personal data collection to facilitate the granting of access to the suite of DCSA systems to Security Managers for the purpose of the initiation, investigation and adjudication of information relevant to DoD security clearances and employment suitability determinations for active duty military, civilian employees and contractors requiring the aforementioned clearances. As a suite of Personnel Security Systems, they are the authoritative source for clearance information resulting in accesses determinations to sensitive/classified information and facilities.

Affected Public: Business or other for-profit.

Annual Burden Hours: 3,704.

Number of Respondents: 22,225.

Responses per Respondent: 1.

Annual Responses: 22,225.

Average Burden per Response: 10 minutes.

Frequency: As Required.

Dated: August 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021-18246 Filed 8-24-21; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2021-OS-0091]

Proposed Collection; Comment Request

AGENCY: The Under Secretary of Defense for Acquisition and Sustainment, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Defense Logistics Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 25, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the Deputy Assistant Secretary of Defense for Logistics, 4800 Mark Center Drive, Suite 14G07-01, Alexandria, VA 22350, ATTN: Anthony VanBuren, or call (571) 372-5207.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Materiel Disposition Procedures for the Sale of DoD Materiel; DLA Form 2536, DLA Form 2537; OMB Control Number 0704-0534.

Needs and Uses: This collection is necessary for the Department of Defense (DoD) and its representatives to assess the ability of prospective purchasers to comply with applicable laws and regulations before the sale of materiel. Defense Logistics Agency (DLA) Form 2536, "Statement of Intent," is used to identify the nature of the purchaser's business, where the materials will be stored, and what the buyer's intentions are with the materiel (*i.e.*, use the materiel as intended, re-sell to others, scrap the materiel for recovery of

contents, or re-refine or re-process the materiel). This form is used to determine if DLA Form 2537, "Pre-Award/Post-Award On-Site Review," will also be needed; DLA Form 2537 allows DoD components to determine if the purchaser is capable of meeting environmental and hazardous material handling responsibilities, in compliance with Part 102 of Title 41 CFR. Compliance with this regulation must be ascertained before DoD components may make an award of hazardous and dangerous property.

Affected Public: Business or other for-profit.

Annual Burden Hours: 198.

Number of Respondents: 2.

Responses per Respondent: 2.

Annual Responses: 144.

Average Burden per Response: 82.5 minutes.

Frequency: On occasion.

Dated: August 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2021-18252 Filed 8-24-21; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2021-OS-0090]

Proposed Collection; Comment Request

AGENCY: Defense Counterintelligence and Security Agency, Department of Defense (DoD).

ACTION: Information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the Defense Counterintelligence and Security Agency announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by October 25, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Counterintelligence and Security Agency, 27130 Telegraph Road, Quantico, VA 22134, ATTN: Mr. Matthew Kitzman, or call 571-305-6042.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Certificate Pertaining to Foreign Interest; SF328; OMB Control Number 0704-0579.

Needs and Uses: Completion of the SF 328 and submission of supporting documentation (*e.g.*, company or entity charter documents, board meeting minutes, stock or securities information, descriptions of organizational structures, contracts, sales, leases and/or loan agreements and revenue documents, annual reports and income statements, etc.) is part of the eligibility determination for access to classified information and/or issuance of a Facility Clearance.

Affected Public: Business or other for-profit; Not-for-profit institutions.

Annual Burden Hours: 2,243.5.

Number of Respondents: 1,923.

Responses per Respondent: 1.

Annual Responses: 1,923.

Average Burden per Response: 70 minutes.

Frequency: On Occasion.

Dated: August 18, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021-18249 Filed 8-24-21; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF ENERGY

Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy

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

ACTION: Notice.

SUMMARY: In this notice, the U.S. Department of Energy (DOE) is forecasting the representative average unit costs of five residential energy sources for the year 2021 pursuant to the Energy Policy and Conservation Act (Act). The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene.

DATES: The representative average unit costs of energy contained in this notice will become effective September 24, 2021 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121, (202) 287-1692, ApplianceStandardsQuestions@ee.doe.gov.

Ms. Amelia Whiting, U.S. Department of Energy, Office of General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0103, (202) 586-2588, Amelia.Whiting@hq.doe.gov.

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act requires that DOE prescribe test procedures for the measurement of the estimated annual operating costs or other measures of energy consumption for certain consumer products specified in the Act. (42 U.S.C. 6293(b)(3)) These test procedures are found in Title 10 of the Code of Federal Regulations (CFR) part 430, subpart B.

Section 323(b)(3) of the Act requires that the estimated annual operating costs of a covered product be calculated

from measurements of energy use in a representative average use cycle or period of use and from representative average unit costs of the energy needed to operate such product during such cycle. (42 U.S.C. 6293(b)(3)) The section further requires that DOE provide information to manufacturers regarding the representative average unit costs of energy. (42 U.S.C. 6293(b)(4)) This cost information should be used by manufacturers to meet their obligations under section 323(c) of the Act. Most notably, these costs are used to comply with Federal Trade Commission (FTC) requirements for labeling. Manufacturers are required to use the revised DOE representative average unit costs when the FTC publishes new ranges of comparability for specific covered products, 16 CFR part 305. Interested parties can also find information covering the FTC labeling requirements at <https://www.ftc.gov/appliances>.

DOE last published representative average unit costs of residential energy in a **Federal Register** notice entitled, “Energy Conservation Program for Consumer Products: Representative Average Unit Costs of Energy”, dated March 17, 2021, 86 FR 14618.

On September 24, 2021, the cost figures published in this notice will become effective and supersede those cost figures published on March 17, 2021. The cost figures set forth in this notice will be effective until further notice.

DOE’s Energy Information Administration (EIA) has developed the 2021 representative average unit after-tax residential costs found in this notice. These costs for electricity, natural gas, No. 2 heating oil, and propane are based on simulations used to produce the August 2021, EIA *Short-Term Energy Outlook* (EIA releases the *Outlook* monthly). The representative average unit after-tax cost for kerosene is derived from its price relative to that of heating oil, based on the 2010 to 2013 averages of the U.S. refiner price to end users, which include all the major energy-consuming sectors in the U.S. for

these fuels. The source for these price data is the July 2021, *Monthly Energy Review* DOE/EIA-0035(2021/7). The representative average unit after-tax cost for propane is derived from its price relative to that of heating oil, based on the 2021 averages of the U.S. residential sector prices found in the *Annual Energy Outlook 2021*, AEO2021) (February 3, 2021). The *Short-Term Energy Outlook*, the *Monthly Energy Review*, and the *Annual Energy Outlook* are available on the EIA website at <https://www.eia.doe.gov>. For more information on the data sources used in this Notice, contact the National Energy Information Center, Forrestal Building, EI-30, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-8800, email: infoctr@eia.doe.gov.

The 2021 representative average unit costs under section 323(b)(4) of the Act are set forth in Table 1, and will become effective September 24, 2021. They will remain in effect until further notice.

Signing Authority

This document of the Department of Energy was signed on August 20, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 20, 2021.

Treena V. Garrett,

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

TABLE 1—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (2021)

Type of energy	Per million Btu ¹	In commonly used terms	As required by test procedure
Electricity	\$39.83	13.59¢/kWh ^{2,3}	\$0.136/kWh.
Natural Gas	10.93	\$1.093/therm ⁴ or \$11.36/MCF ^{5,6}	\$0.00001093/Btu.
No. 2 Heating Oil	21.62	\$2.97/gallon ⁷	\$0.00002162/Btu.
Propane	21.06	\$1.92/gallon ⁸	\$0.00002106/Btu.
Kerosene	25.59	\$3.45/gallon ⁹	\$0.00002559/Btu.

Sources: U.S. Energy Information Administration, *Short-Term Energy Outlook* (August 10, 2021), *Annual Energy Outlook* (February 3, 2021), and *Monthly Energy Review* (July 27, 2021).

Notes: Prices include taxes.

¹ Btu stands for British thermal units.

² kWh stands for kilowatt hour.

³ 1 kWh = 3,412 Btu.

⁴ 1 therm = 100,000 Btu.

⁵ MCF stands for 1,000 cubic feet.

⁶ For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,039 Btu.

⁷ For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 13,738 Btu.

⁸ For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.

⁹ For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. 2021-18325 Filed 8-24-21; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18-126-001; ER16-2019-005.

Applicants: Five Points Solar Park LLC, AL Solar A, LLC.

Description: Supplement to March 9, 2021 Notice of Non-Material Change in Status of AL Solar A, LLC, et al.

Filed Date: 8/3/21.

Accession Number: 20210803-5157.

Comment Date: 5 p.m. ET 8/24/21.

Docket Numbers: ER20-2528-002.

Applicants: Airport Solar LLC.

Description: Refund Report: Refund Report Under Docket ER20-2528 to be effective N/A.

Filed Date: 8/18/21.

Accession Number: 20210818-5049.

Comment Date: 5 p.m. ET 9/8/21.

Docket Numbers: ER21-123-000.

Applicants: Idaho Power Company.

Description: Idaho Power Company submits Demonstration for Formula Rate Meeting Requirements to Incorporate Changes in tax Rates.

Filed Date: 7/14/21.

Accession Number: 20210714-5169.

Comment Date: 5 p.m. ET 9/1/21.

Docket Numbers: ER21-2330-000; ER21-2331-000; ER21-2333-000; ER21-2336-000.

Applicants: Tecolote Wind LLC, Red Cloud Wind LLC, Duran Mesa LLC, Clines Corners Wind Farm LLC.

Description: Supplement to July 1, 2021 Clines Corners Wind Farm LLC, et al. tariff filing.

Filed Date: 8/12/21.

Accession Number: 20210812-5188.

Comment Date: 5 p.m. ET 9/2/21.

Docket Numbers: ER21-2537-001.

Applicants: California Independent System Operator Corporation.

Description: Tariff Amendment:

2021-08-18 Errata Filing—First Amendment to ABAOA—BANC to be effective 10/18/2021.

Filed Date: 8/18/21.

Accession Number: 20210818-5091.

Comment Date: 5 p.m. ET 9/8/21.

Docket Numbers: ER21-2704-000.

Applicants: Wisconsin Power and Light Company.

Description: § 205(d) Rate Filing: WPL-Grant County Affected System MPFCA to be effective 10/18/2021.

Filed Date: 8/18/21.

Accession Number: 20210818-5032.

Comment Date: 5 p.m. ET 9/8/21.

Docket Numbers: ER21-2705-000.

Applicants: Wisconsin Power and Light Company.

Description: § 205(d) Rate Filing: WPL-WE Affected System MPFCA to be effective 10/18/2021.

Filed Date: 8/18/21.

Accession Number: 20210818-5035.

Comment Date: 5 p.m. ET 9/8/21.

Docket Numbers: ER21-2706-000.

Applicants: Wisconsin Power and Light Company.

Description: § 205(d) Rate Filing: WPL-Red Barn Affected System MPFCA to be effective 10/18/2021.

Filed Date: 8/18/21.

Accession Number: 20210818-5037.

Comment Date: 5 p.m. ET 9/8/21.

Docket Numbers: ER21-2707-000.

Applicants: Wisconsin Power and Light Company.

Description: § 205(d) Rate Filing: Grant County et al Affected System MPFCA to be effective 10/18/2021.

Filed Date: 8/18/21.

Accession Number: 20210818-5043.

Comment Date: 5 p.m. ET 9/8/21.

Docket Numbers: ER21-2708-000.

Applicants: Wisconsin Power and Light Company.

Description: § 205(d) Rate Filing: Grant County Affected System FCA to be effective 10/18/2021.

Filed Date: 8/18/21.

Accession Number: 20210818-5045.

Comment Date: 5 p.m. ET 9/8/21.

Docket Numbers: ER21-2709-000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021-08-18_SA 3413 Ameren IL-Cass County Solar Project 1st Rev GIA (J859) to be effective 8/4/2021.

Filed Date: 8/18/21.

Accession Number: 20210818-5053.

Comment Date: 5 p.m. ET 9/8/21.

Docket Numbers: ER21-2710-000.

Applicants: Idaho Power Company.

Description: Idaho Power Company submits Average System Cost Filing for Sales of Electric Power to the Bonneville Power Administration, FY 2022-2023.

Filed Date: 8/17/21.

Accession Number: 20210817-5179.

Comment Date: 5 p.m. ET 9/7/21.

Docket Numbers: ER21-2711-000.

Applicants: Octopus Energy LLC.

Description: Baseline eTariff Filing: Application For Market Based Rate Authority to be effective 8/19/2021.

Filed Date: 8/18/21.

Accession Number: 20210818-5119.

Comment Date: 5 p.m. ET 9/8/21.

Take notice that the Commission received the following electric reliability filings:

Docket Numbers: RR21-8-000.

Applicants: North American Electric Reliability Corporation.

Description: Petition of the North American Electric Reliability Corporation for Approval of Revisions to the NERC Rules of Procedure Regarding Reliability Standards.

Filed Date: 8/18/21.

Accession Number: 20210818-5089.

Comment Date: 5 p.m. ET 9/8/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.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 18, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021-18219 Filed 8-24-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RM98–1–000]****Records Governing Off-the-Record Communications; Public Notice**

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file

associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at <http://www.ferc.gov> using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Nos.	File date	Presenter or requester
Prohibited:		
1. P–2082–062, P–2082–063, P–14803–000, P–14803–001	8–16–2021	FERC Staff. ¹
2. P–1494–438	8–17–2021	FERC Staff. ²
3. P–14803–001	8–18–2021	FERC Staff. ³
4. CP16–10–000	8–19–2021	FERC Staff. ⁴
5. P–14803–001	8–19–2021	FERC Staff. ⁵
Exempt:		
P–2082–062	8–18–2021	Jackson County Board of Commissioners. ⁶
P–14803–000.		
P–14803–004.		

Dated: August 19, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–18294 Filed 8–24–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP21–1037–000.

Applicants: Southern Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Fuel Retention Rates—Winter 2021 to be effective 10/1/2021.

Filed Date: 8/18/21.

Accession Number: 20210818–5021.

Comment Date: 5 p.m. ET 8/30/21.

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 19, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–18296 Filed 8–24–21; 8:45 am]

BILLING CODE 6717–01–P

¹ Emailed comments dated 8/11/2021 from Cheryl Noutary.

² Emailed comments dated 8/15/2021 from Christopher Lish.

³ Emailed comments dated 8/17/2021 from Ulam Alum.

⁴ Emailed comments dated 8/18/2021 from Maury Johnson.

⁵ Emailed comments dated 8/17/2021 from Ulam Alum.

⁶ Commissioner Colleen Roberts.

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. ER21–2699–000]

Minco Wind Energy III, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Minco Wind Energy III, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 8, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the

last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Dated: August 19, 2021.

Debbie-Anne A. Reese,*Deputy Secretary.*

[FR Doc. 2021–18298 Filed 8–24–21; 8:45 am]

BILLING CODE 6717–01–P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. ER21–2711–000]

Octopus Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Octopus Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is September 8, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the

eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Dated: August 19, 2021.

Debbie-Anne A. Reese,*Deputy Secretary.*

[FR Doc. 2021–18293 Filed 8–24–21; 8:45 am]

BILLING CODE 6717–01–P**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. AD21–13–000]

Climate Change, Extreme Weather, and Electric System Reliability; Correction

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice; correction.

SUMMARY: The Federal Energy Regulatory Commission published a notice in the **Federal Register** of August 17, 2021, inviting comments to address a list of questions that were inadvertently omitted from the notice.

FOR FURTHER INFORMATION CONTACT: Rahim Amerkhalil, 202–502–8266 or Michael Haddad, 202–502–8088.

SUPPLEMENTARY INFORMATION:**Correction**

In the **Federal Register** of August 17, 2021, in FR Doc. 2021–17626, on page

45980, in the first column after the words “Kimberly D. Bose, Secretary” insert the following additional text:

Post-Technical Conference Questions for Comment

1. Multiple panelists at the technical conference suggested that utilities and other industry participants should engage in an assessment of climate change risks to their systems.¹ Should public utilities be required to engage in either a one-time assessment or periodic assessments of climate change risks to their assets and/or on how their system is expected to perform under expected climate change driven scenarios? If so, should such requirements be incorporated into jurisdictional local transmission planning and/or regional transmission planning/cost allocation process tariff provisions? Similarly, should such requirements be incorporated into FERC-jurisdictional resource adequacy tariff provisions?

2. Several panelists at the technical conference suggested that greater use of probabilistic approaches could provide a more robust approach to accounting for extreme weather.² Would incorporating probabilistic methods into local transmission planning and/or regional transmission planning/cost allocation processes allow public utility transmission providers to more effectively assess low probability/high impact events and common mode failures?³ If so, should such practices be incorporated into public utility transmission providers’ local transmission planning and/or regional transmission planning/cost allocation processes? What, if any, jurisdictional tariff changes would be necessary to incorporate these practices into existing transmission planning and cost allocation processes? Similarly, should such practices be incorporated into any resource adequacy assessments carried out under FERC-jurisdictional tariff provisions?

3. At the technical conference, panelists noted the importance of coordinating transfers across the seams between Regional Transmission

Organizations/Independent System Operators (RTOs/ISOs) and non-RTO/ISO areas to both reduce costs and improve the resilience of the transmission grid during extreme weather events.⁴ How do RTO/ISO and non-RTO/ISO transmission providers manage congestion at system seams? What are the benefits and drawbacks of the current management regime, from the perspectives of cost, resource participation, and ability to maximize reliability and other benefits of transmission service? Can more cost-effective congestion management at the border between RTOs/ISOs and neighboring non-RTO/ISO transmission providers be facilitated through new *pro forma* Open Access Transmission Tariff (OATT) provisions? If so, how could the *pro forma* OATT be modified to achieve this enhanced coordination? For example, could existing *pro forma* OATT section 33.2 (Transmission Constraints), which permits a transmission provider to use redispatch to maintain reliability during transmission constraints, be modified to enhance coordination with a neighboring RTO/ISO during such redispatch? Are there any other potential modifications to the *pro forma* OATT that might facilitate cost-effective congestion management at the border between RTOs/ISOs and neighboring non-RTO/ISO transmission providers? If so, please describe them in as much detail as possible. If such modifications were made to the *pro forma* OATT, could they also help improve coordination between RTOs/ISOs and non-jurisdictional entities through their inclusion in the reciprocity tariffs that are voluntarily filed by some non-jurisdictional entities? What challenges would any such modifications need to address?

4. RTOs/ISOs currently have differing levels of authority to approve or recall outages.⁵ Can generation and transmission outage scheduling practices be improved? For example, should RTOs/ISOs have greater authority to deny generation and transmission outage requests, such as having the ability to deny such a request based on estimated economic impact, as ISO New England currently has? Similarly, should transmission owners be given an incentive to schedule transmission outages more efficiently by making transmission owners responsible for uplift they cause from

outages, as the New York Independent System Operator currently does? Would such changes help system operators better prepare for or respond to extreme weather events?

5. Transmission topology optimization (also sometimes known as transmission switching) involves dynamically modifying transmission topology as a component of determining optimal day-ahead and real-time energy market solutions.⁶ Should RTOs/ISOs be required to incorporate transmission switching or transmission topology optimization in their day-ahead and real-time energy markets? Could the adoption of such optimization approaches both reduce costs and improve the resilience of the transmission grid?

6. Panelists at the technical conference suggested that current requirements for system performance under extreme weather scenarios may need to evolve.⁷ Should the transmission planning requirements established under North American Electric Reliability Corporation (NERC) reliability standard TPL-001-4/5 be modified to better assess and mitigate the risk of extreme weather events and associated common mode failures? Should any additional changes be considered to the NERC Reliability Standards to address the risk of extreme weather events?

7. Multiple panelists at the conference emphasized the need to establish a requirement for interregional transmission planning and improve existing interregional cost allocation methods to prepare for extreme weather events.⁸ How can the existing requirement to have an interregional transmission coordination (not planning) and cost allocation process be modified to better account for the benefits that interregional transmission facilities provide during extreme weather events? Would defining a set of uniform transmission benefit metrics that can be used across regions in the interregional transmission coordination and cost allocation processes help interregional transmission projects come to fruition? If so, please propose such metrics in as much detail as possible.

8. Would having a target level of interregional transfer capacity help facilitate more effective development of interregional transmission projects?

¹ See June 1 Tr. at 14 (Adam Smith); 17 (Jessica Hogle); 55, 83 (Romany Webb); 79 (Derek Stenclik).

² See June 1 Tr. at 36–37, 81 (Lisa Barton); 53, 69–70 (Judy Chang); 79, 92 (Derek Stenclik); 83 (Romany Webb); 119 (Richard Tabors); 129 (Neil Millar).

³ As described in the March 15, 2021 Supplemental Notice of Technical Conference Inviting Comments in this proceeding, common mode failures occur where, due to climate change or an extreme weather event, a large number of facilities critical to electric reliability (e.g., generation resources, transmission lines, substations, and natural gas pipelines) experience outages or significant operational limitations, either simultaneously or in close succession.

⁴ See June 2 Tr. at 64, 66–67 (Renuka Chatterjee); 68 (Amanda Frazier); 153 (Dan Scripps); 66 (David Patton).

⁵ See June 2 Tr. at 21–23, 32 (Wesley Yeomans); 23–24 (Renuka Chatterjee); 30–31, 74–75 (David Patton).

⁶ See June 2 Tr. at 7 (Amanda Frazier), 55 (Renuka Chatterjee), 55–57 (Mads Almalkhi), 58–59 (David Patton), 60–61 (Robin Broder-Hytowitz), 61–62 (Anne Hoskins), 94–96 (Charles Long), 97–98 (Daniel Brooks), 136 (Letha Tawney).

⁷ June 1 Tr. at 138–40 (Mark Lauby).

⁸ June 2 Tr. at 64–66 (Renuka Chatterjee), 147 (Patricia Hoffman), 153 (Dan Scripps).

Should minimum amounts of interregional transmission transfer capability be required or encouraged as a way to improve the resilience of the power system?⁹ If so, how should such minimums be determined (e.g., a stated MW or percentage of load basis), and how specifically should such minimum requirements be implemented (e.g., NERC reliability standards or new tariff requirements)?

9. Multiple panelists at the conference suggested that the current reliance on the 1 day in 10-year Loss of Load Expectation is outmoded.¹⁰ Are there alternative resource adequacy planning approaches that could be more robust alternatives to the use of the 1 day in 10-year Loss of Load Expectation standard? Please describe such alternatives, including describing whether such alternatives have been used either in the United States or elsewhere.

Dated: August 19, 2021.

Kimberly D. Bose,
Secretary.

[FR Doc. 2021-18259 Filed 8-24-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21-2674-000]

Borderlands Wind, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Borderlands Wind, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of

future issuances of securities and assumptions of liability, is September 8, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: August 19, 2021.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2021-18297 Filed 8-24-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21-482-000]

Guardian Pipeline, L.L.C.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on August 4, 2021, Guardian Pipeline, L.L.C. (Guardian),

100 West Fifth Street, ONEOK Plaza, Tulsa, Oklahoma 74103, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.211(a)(2) of the Commission's regulations under the Natural Gas Act (NGA) and Guardian's blanket certificate issued in Docket No. CP00-36-000, for authorization to construct, own, and operate the BC Organics Interconnect (Project), in Brown County, Wisconsin. Specifically, Guardian proposes to complete the construction of a new delivery point connecting Guardian to BC Organics, LLC. (BC Organics), which will measure a gas volume of up to 1,500 Mcf/Day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Any questions regarding this prior notice request should be directed to Denise Adams, Director of Regulatory Affairs, Guardian Pipeline, L.L.C., 100 West 5th Street, ONEOK Plaza, Tulsa, Oklahoma at (918) 732-1408 or at RegulatoryAffairs@oneok.com.

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on October 16, 2021. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the

⁹ June 2 Tr. at 64-66 (Renuka Chatterjee).

¹⁰ See June 1 Tr. at 85 (Judy Chang), 119 (Richard Tabors), 122-123 (Alison Silverstein), 125 (Devin Hartman), 127 (Mark Lauby).

NGA,¹ any person² or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,³ and must be submitted by the protest deadline, which is October 16, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is October 16, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at <https://www.ferc.gov/resources/guides/how-to-intervene.asp>.

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for

being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before October 16, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21-482-000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. New eFiling users must first create an account by clicking on "eRegister." You will be asked to select the type of filing you are making; first select General" and then select "Protest", "Intervention", or "Comment on a Filing"; or⁶

(2) You can file a paper copy of your submission by mailing it to the address below.⁷ Your submission must reference the Project docket number CP21-482-000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

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

⁶ Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at www.ferc.gov under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

⁷ Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Protests and motions to intervene must be served on the applicant either by mail at: 1001 Louisiana Street, Houston, Texas 77002 or email (with a link to the document) at debbie_kalisek@kindermorgan.com. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website at www.ferc.gov using the "eLibrary" link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

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

Dated: August 17, 2021.

Kimberly D. Bose,
Secretary.

[FR Doc. 2021-18258 Filed 8-24-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR21-60-000.

Applicants: Hope Gas, Inc.

Description: Submits tariff filing per 284.123(b),(e)+(g): HGI-2020 WV PSC Base Rate Case to be effective 7/28/2021.

Filed Date: 8/12/2021.

Accession Number: 20210812-5018.

Comments Due: 9/2/2021.

Docket Number: RP21-901-001.

Applicants: Fieldwood Energy LLC, Fieldwood Energy Offshore LLC,

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

Fieldwood Energy SP LLC, Mako Buyer LLC.

Description: Revision to Joint Petition of Fieldwood Energy LLC, et. al. for Limited Waivers and Request for Expedited Action and Shortened Comment Period.

Filed Date: 8/12/21.

Accession Number: 20210812–5161.

Comments Due: 5 pm ET 8/24/21.

Docket Numbers: RP21–1036–000.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing—Woodriver Energy LLC to be effective 8/17/2021.

Filed Date: 8/17/21.

Accession Number: 20210817–5014.

Comment Date: 5 pm ET 8/30/21.

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 18, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–18215 Filed 8–24–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2698–110]

Duke Energy Carolinas, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Extension of Reservoir Elevation Variance.

b. *Project No.:* 2698–110.

c. *Date Filed:* August 16, 2021.

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name of Project:* East Fork Hydroelectric Project.

f. *Location:* The project is located on the East Fork of the Tuckasegee River in Jackson County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Jeff Lineberger, Director, Duke Energy Carolinas, LLC, 526 S Church Street—Mail Stop EC12Y, Charlotte, NC 28202, Jeff.Lineberger@duke-energy.com.

i. *FERC Contact:* Michael Calloway at (202) 502–8041 or michael.calloway@ferc.gov.

j. *Deadline for filing comments, motions to intervene, and protests:* September 20, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–2698–110. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee is proposing to extend the drawdown of the Cedar Cliff

Hydroelectric Development's reservoir that was previously approved on August 27, 2019 by the Order Approving Variance of Article 401 (168 FERC ¶ 62,116) that is currently in effect until September 2021. The licensee is proposing to extend the drawdown of 30 feet below normal pool until September 30, 2024 in order to complete auxiliary spillway upgrades for project safety purposes. The licensee is in the process of modifying the spillway area by rock splitting and blasting to lower the sill to 2,305 ft above mean sea level to accommodate 6 Fusegates. The licensee has also constructed and is using the new access road to facilitate the construction activity. The resulting spoil material is being placed in the reservoir per the requirements of the U.S. Army Corps of Engineers Section 404 individual permit and the Section 401 Water Quality Certification conditions from the North Carolina Division of Water Resource. The licensee is implementing mitigation measures to protect Indiana bats and northern long-eared bats that were required by U.S. Fish and Wildlife Service. Furthermore, the licensee plans to keep the public access boat ramp closed for the duration of the drawdown, and plans to repave the parking lot and remove sediment from the launch area during the closure.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the

proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Documents: Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: August 19, 2021.

Kimberly D. Bose,
Secretary.

[FR Doc. 2021-18286 Filed 8-24-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF21-4-000]

Southeastern Power Administration; Notice of Filing

Take notice that on August 16, 2021, Southeastern Power Administration submitted tariff filing: Proposed Rate Increase for the Jim Woodruff Project, to be effective 10/1/2021.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using

the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Comment Date: 5:00 p.m. Eastern Time on September 15, 2021.

Dated: August 18, 2021.

Debbie-Anne A. Reese,
Deputy Secretary.

[FR Doc. 2021-18217 Filed 8-24-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2322-071]

Brookfield White Pine Hydro, LLC; Notice of Amendment Application To Incorporate Interim Species Protection Plan Into the Project License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following amendment application has been filed with the Commission and is available for public inspection:

- a. *Application Type:* Amendment of License.
- b. *Project Nos:* P-2322-071.
- c. *Date Filed:* June 1, 2021.
- d. *Applicants:* Brookfield White Pine Hydro, LLC.
- e. *Name of Projects:* Shawmut Hydroelectric Project.

f. *Locations:* The project is located on the lower Kennebec River in Kennebec and Somerset Counties, Maine.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Kelly Maloney, Licensing and Compliance Manager, Brookfield White Pine Hydro, LLC, 150 Main Street, Lewiston, ME 04240; telephone: (207) 755-5605.

i. *FERC Contact:* Marybeth Gay, (202) 502-6125, Marybeth.Gay@ferc.gov.

j. *Deadline for filing comments, motions to intervene, and protests:* September 20, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P-2322-071. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Brookfield White Pine Hydro, LLC, licensee for the Shawmut Hydroelectric Project (P-2322), requests Commission approval to amend the license for the project to incorporate the provisions of an Interim Species Protection Plan (Interim Plan) for Atlantic salmon. On May 19, 2016,

the Commission approved an Interim Plan for the Shawmut, Lockwood (P-2574), and Weston (P-2325) Projects (May 2016 Order), which expired on December 31, 2019.

Under the proposed Interim Plan, the licensee would continue the protection measures for the Shawmut project contained in the expired Interim Plan, plus additional supplemental measures. The licensee also proposes to continue to implement the terms and conditions for the Shawmut project contained in the expired Incidental Take Statement and Biological Opinion, until such time as the Commission issues a decision on the relicense application.

In addition, the licensee requests the Commission remove the requirement for the construction of an upstream fishway at the Shawmut Project, as required under the current license term pursuant to the May 2016 Order. In a letter issued July 13, 2020, Commission staff determined that construction of the proposed fish lift should be considered in the relicensing proceeding.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email FERCOnlineSupport@ferc.gov, for TTY, call (202) 502-8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO

INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: August 19, 2021.

Kimberly D. Bose,
Secretary.

[FR Doc. 2021-18284 Filed 8-24-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21-221-000.

Applicants: Montague Solar, LLC.

Description: Notice of Self-Certification of EG or FC of Montague Solar, LLC of Exempt Wholesale Generator Status.

Filed Date: 8/19/21.

Accession Number: 20210819-5080.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: EG21-222-000.

Applicants: Fairbanks Solar Holdings LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Fairbanks Solar Holdings LLC.

Filed Date: 8/19/21.

Accession Number: 20210819-5126.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: EG21-223-000.

Applicants: Fairbanks Solar Energy Center LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Fairbanks Solar Energy Center LLC.

Filed Date: 8/19/21.

Accession Number: 20210819-5127.

Comment Date: 5 p.m. ET 9/9/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21-2392-001.

Applicants: Power Authority of the State of New York, New York Independent System Operator, Inc.

Description: Tariff Amendment: Power Authority of the State of New York submits tariff filing per 35.17(b): Amendment filing of NYPA Cost Containment Mechanism for Segment A to be effective 9/15/2021.

Filed Date: 8/19/21.

Accession Number: 20210819-5103.

Comment Date: 5 p.m. ET 8/26/21.

Docket Numbers: ER21-2632-000.

Applicants: ISO New England Inc.

Description: ISO New England Inc. submits Second Quarter 2021 Capital Budget Report.

Filed Date: 8/9/21.

Accession Number: 20210809-5232.

Comment Date: 5 p.m. ET 8/30/21.

Docket Numbers: ER21-2712-000.

Applicants: Heartland Generation Ltd.

Description: Baseline eTariff Filing: Baseline Tariff to be effective 10/19/2021.

Filed Date: 8/19/21.

Accession Number: 20210819-5052.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: ER21-2713-000.

Applicants: SE Athos I, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization and Request for Waivers to be effective 8/20/2021.

Filed Date: 8/19/21.

Accession Number: 20210819-5081.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: ER21-2714-000.

Applicants: SE Athos II, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization and Request for Waivers to be effective 8/20/2021.

Filed Date: 8/19/21.

Accession Number: 20210819-5082.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: ER21-2715-000.

Applicants: Fairbanks Solar Energy Center LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 10/19/2021.

Filed Date: 8/19/21.

Accession Number: 20210819-5121.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: ER21-2716-000.

Applicants: Fairbanks Solar Holdings LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 10/19/2021.

Filed Date: 8/19/21.

Accession Number: 20210819-5122.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: ER21-2717-000.

Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2021–08–19 Att X Generator Replacement Transfer Restriction Reform Filing to be effective 10/19/2021.

Filed Date: 8/19/21.

Accession Number: 20210819–5128.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: ER21–2719–000.

Applicants: NextEra Energy Seabrook, LLC.

Description: Baseline eTariff Filing: Engineering and Procurement Agreement Between NextEra Energy Seabrook and NECEC to be effective 8/20/2021.

Filed Date: 8/19/21.

Accession Number: 20210819–5129.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: ER21–2720–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–08–19 Clarifying ineligibility of DIRs to provide online STR to be effective 12/7/2021.

Filed Date: 8/19/21.

Accession Number: 20210819–5135.

Comment Date: 5 p.m. ET 9/9/21.

Docket Numbers: ER21–2721–000.

Applicants: ITC Midwest LLC.

Description: § 205(d) Rate Filing: NSPM Lakefield Junction CIAC to be effective 8/20/2021.

Filed Date: 8/19/21.

Accession Number: 20210819–5150.

Comment Date: 5 p.m. ET 9/9/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 19, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–18295 Filed 8–24–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–OW–2021–0201; FRL–8821–01–R8]

Notice of Proposed Reissuance of the NPDES General Permits for Wastewater Lagoon Systems in Indian Country in EPA, Region 8

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed draft permits and request for public comment.

SUMMARY: EPA, Region 8 (R8) is providing for comment the draft 2021 National Pollutant Discharge Elimination System (NPDES) General Permits for Wastewater Lagoon Systems in Indian Country in R8. These draft permits are renewals of existing permits and will authorize discharge of wastewater from lagoons located in R8 Indian country in accordance with the terms and conditions described therein. EPA proposes to issue these permits for five (5) years and is seeking public comment on the draft permits.

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

ADDRESSES: Comments regarding this document, identified by Docket ID No. EPA–R08–OW–2021–0201, may be submitted (preferred method) to the Federal Rulemaking Portal: <https://www.regulations.gov> by following the online instructions for submitting comments.

Tips for preparing your comments. When submitting comments, remember to:

- Identify the public notice, docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Organize comments by referencing the part of the permit or fact sheet by section 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.

h. Make sure to submit your comments by the comment period deadline identified in the **DATES** section (above).

Once submitted, comments cannot be edited or removed from www.regulations.gov. Additionally, if technical difficulties are experienced submitting through this site, comments may be emailed to Alysia Tien at tien.alysia@epa.gov using subject line “Region 8 Lagoon General Permit Public Comment”. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Refer to the General Information part of the **SUPPLEMENTARY INFORMATION** section below if you intend to submit information considered CBI. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Due to current office procedures related to the COVID–19 outbreak, at this time there is no opportunity to submit comments via regular mail.

FOR FURTHER INFORMATION CONTACT: For requests to make alternative arrangements for access to the docket or comment submission, please email or call: Alysia Tien, Wastewater Section, (303) 312–7021 or tien.alysia@epa.gov. Publicly available docket materials related to the draft permits may be found in the Federal Rulemaking Portal: <https://www.regulations.gov>, identified by Docket ID No. EPA–R08–OW–2021–0201. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, if applicable, would be available only in hard copy. However, to reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Public Comment Information

Any interested person may submit comments on the draft permits using the

mechanisms listed above. As of the date of this document, a public hearing has not been scheduled. Within the comment period, interested persons may also submit a request, to the contact listed above, that EPA hold a public hearing pursuant to 40 CFR 124.12, concerning the draft permits. Such requests shall state the nature of the issues proposed to be raised at the hearing. A public hearing may be held at least thirty (30) days after public notice if the Regional Administrator finds that response to this document indicates significant public interest. All comments and requests for public hearings must be received in writing by the close of the public comment period. At the time of the final decision on these draft permits, EPA will respond to all significant comments and make responses available in the docket after the PN period has closed, within the final fact sheet associated with the final permits.

B. Submitting CBI

Do not submit this CBI to EPA through <http://regulations.gov> or email. If you intend to submit CBI information, please email or call: Alysia Tien, Wastewater Section, (303) 312-7021 or tien.alysia@epa.gov to make arrangements prior to submission. When submitting, clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM, mark the outside of the disk or CD ROM as CBI and 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.

II. Background

The proposed draft permits are similar to the existing permits and will authorize discharge of wastewater in accordance with the terms and conditions described therein. The fact sheet for the draft permits is also provided, in the docket listed above, and provides detailed information on: The decisions used to set limitations, the specific geographic areas covered by the draft permits, information on monitoring schedules, inspection requirements, and other regulatory decisions or requirements.

Issuance of these permits will cover discharges from wastewater lagoon systems located in Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. The draft permits are geographic by state, with the permit

coverage specified by Indian reservations in the state [specific permit coverage areas below]; any land held in trust by the United States for an Indian tribe; and any other areas which are Indian country within the meaning of 18 U.S.C. 1151.

III. Summary of Draft Permits

Coverage under the draft permits will be limited to lagoon systems treating primarily domestic wastewater and will include two categories of coverage; discharging lagoons (DIS), and lagoons expected to have no discharge but with the potential to discharge (NODIS). The effluent limitations for discharging lagoons are primarily based on the Federal Secondary Treatment Regulation (40 CFR part 133). However, if more stringent and/or additional effluent limitations were considered necessary to comply with applicable water quality standards, etc., those limitations and the basis for them are explained in the fact sheet and will be imposed by written notification to the permittee. Lagoon systems under the NODIS category are required to have no discharge except in accordance with the specific provisions of the permit (e.g., bypass). Self-monitoring, operation and maintenance, routine inspection and other requirements are also included in the draft permits. Where tribes have Clean Water Act (CWA) section 401(a)(1) certification authority, EPA has requested certification that the draft permits comply with applicable provisions of the CWA and any currently approved tribal water quality standard, in accordance with processes outlined in 40 CFR part 124.

Permit Coverage Has Been Designated as Follows for the Draft Permits

- *Colorado (COG587###)*: Indian country, as defined in 18 U.S.C. 1151, located in Colorado generally includes (1) lands within the exterior boundaries of the following Indian reservations located within Colorado, in part or in full: The Southern Ute Indian Reservation and the Ute Mountain Ute Reservation; (2) any land held in trust by the United States for an Indian tribe; and (3) any other areas that are "Indian country" within the meaning of 18 U.S.C. 1151. In addition to Indian country in Colorado, the portion of the Ute Mountain Ute Reservation located in New Mexico and any other Indian country lands in New Mexico and Utah held in trust by the United States for the Ute Mountain Ute Tribe or its members.

- *Montana (MTG589###)*: Indian country, as defined in 18 U.S.C. 1151, located in Montana generally includes (1) lands within the exterior boundaries

of the following Indian reservations located within Montana: The Blackfeet Indian Reservation, the Crow Indian Reservation, the Flathead Reservation, the Fort Belknap Reservation, the Fort Peck Indian Reservation, the Northern Cheyenne Indian Reservation, and the Rocky Boy's Reservation; (2) any land held in trust by the United States for an Indian tribe; and (3) any other areas that are "Indian country" within the meaning of 18 U.S.C. 1151.

- *North Dakota (NDG589###)*: Indian country, as defined in 18 U.S.C. 1151, located in North Dakota generally includes (1) lands within the exterior boundaries of the following Indian reservations located within North Dakota, in part or in full: The Fort Berthold Indian Reservation, the Spirit Lake Reservation, the Standing Rock Sioux Reservation, and the Turtle Mountain Reservation; (2) any land held in trust by the United States for an Indian tribe; and (3) any other areas that are "Indian country" within the meaning of 18 U.S.C. 1151. In addition to Indian country in North Dakota, the portion of the Standing Rock Sioux Reservation located in South Dakota and any other Indian country lands held in trust by the United States for the Standing Rock Sioux Tribe or its members in South Dakota.

The North Dakota draft permit covers the above identified Indian country except as provided below: Not including any Indian country lands in North Dakota held in trust by the United States for the Sisseton-Wahpeton Oyate Tribe or its members, which are covered under the South Dakota general permit (SDG589###).

- *South Dakota (SDG589###)*: Indian country, as defined in 18 U.S.C. 1151, located in South Dakota generally includes (1) lands within the exterior boundaries of the following Indian reservations located within South Dakota, in part or in full: The Cheyenne River Reservation, the Crow Creek Reservation, the Flandreau Indian Reservation, the Lower Brule Reservation, the Pine Ridge Reservation, the Rosebud Indian Reservation, the Standing Rock Reservation, and the Yankton Reservation (subject to federal court decisions removing certain lands from Indian country status within the Yankton Reservation); (2) any land held in trust by the United States for an Indian tribe; and (3) any other areas that are "Indian country" within the meaning of 18 U.S.C. 1151. In addition to Indian country in South Dakota, Indian country lands in North Dakota held in trust by the United States for the Sisseton-Wahpeton Oyate Tribe or its members, and the portion of the Pine

Ridge Reservation of the Oglala Sioux Tribe located in Nebraska and any other Indian country lands in Nebraska held in trust by the United States for the Oglala Sioux Tribe or its members.

The South Dakota draft permit covers the above identified Indian country except as provided below: Not including the portion of the Standing Rock Sioux Reservation located in South Dakota and any other Indian country lands in South Dakota held in trust by the United States for the Standing Rock Sioux Tribe or its members, which are covered under the North Dakota general permit (NDG589###).

- *Utah (UTG589###)*: Indian country, as defined in 18 U.S.C. 1151, located in Utah generally includes (1) lands within the exterior boundaries of the following Indian reservations located within Utah, in part or in full: The Goshute Reservation, the Navajo Indian Reservation, the reservation lands of the Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes), the Skull Valley Indian Reservation, the Uintah and Ouray Reservation (subject to federal court decisions removing certain lands from Indian country status within the Uintah and Ouray Reservation), and the Washakie Reservation; (2) any land held in trust by the United States for an Indian tribe; and (3) any other areas that are "Indian country" within the meaning of 18 U.S.C. 1151.

The Utah draft permit covers the above identified Indian country except as provided below: Not including any Indian country lands in Utah held in trust by the United States for the Ute Mountain Ute Tribe or its members, which are covered under the Colorado general permit (COG587###). Not including the portions of the Goshute Reservation and the Navajo Indian Reservation in Utah, or any other Indian country lands in Utah held in trust by the United States for the Navajo Nation or its members or for the Confederated Tribes of the Goshute Reservation or its members, which are regulated by EPA Region 9.

- *Wyoming (WYG589###)*: Indian country, as defined at 18 U.S.C. 1151, located in Wyoming generally includes any lands within the exterior boundaries of the Wind River Indian Reservation (subject to *Wyoming v. EPA*, 875 F.3d 505 (10th Cir. 2017), *cert. denied*, 138 S. Ct. 2677 (2018)); any land held in trust by the United States for an Indian tribe; and any other areas that are "Indian country" within the meaning of 18 U.S.C. 1151.

IV. Other Legal Requirements

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not subject to submission to the Office of Management and Budget (OMB) for formal review.

B. Executive Order 12898: Federal Actions To Address Environmental Justice (EJ) in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (February 16, 1994)) establishes federal executive policy on EJ. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make EJ part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA conducted an EJ Analysis, which is described in Section VII of the fact sheet. EPA has preliminarily determined that the draft permits will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations based on the effluent limits and reporting requirements contained therein. EPA requests comment on this preliminary determination and/or any modifications EPA could make to the proposed permits to address EJ concerns.

Authority: CWA, 33 U.S.C. 1251, *et seq.*

Dated: August 19, 2021.

Judy Bloom,
Manager, Clean Water Branch.

[FR Doc. 2021-18229 Filed 8-24-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OW-2014-0359; FRL 8868-01-OW]

Proposed Information Collection Request Extension; Comment Request; Information Request for the Underground Injection Control Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), "Information Collection Request for the Underground Injection Control (UIC) program" (EPA ICR No. 0370.27, OMB Control No. 2040-0042) 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 the **SUPPLEMENTAL INFORMATION** section of this document. This is a proposed 3-year extension of the ICR, which is currently approved through April 30, 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 25, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OW-2014-0359 online using www.regulations.gov (our preferred method), by email to OW-Docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Kyle Carey, Drinking Water Protection Division, Office of Groundwater and Drinking Water, 4606M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-2322; fax number: (202) 564-3756; email address: carey.kyle@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at <https://www.regulations.gov>. The EPA is temporarily suspending its Docket Center and Reading Room for public visitors, 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. We encourage the public to submit comments, go to [https://](https://www.regulations.gov)

www.regulations.gov. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

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 extension request 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 extension request package to OMB and the opportunity to submit additional comments to OMB.

Abstract: EPA developed the Underground Injection Control (UIC) Program under the authority of the Safe Drinking Water Act to establish a federal-state regulatory system to protect underground sources of drinking water (USDWs) from injection fluids and injection-related activities. Injected fluids include hazardous waste, oil field brines or produced water, mineral processing fluids, various types of industrial fluids, automotive, sanitary, and other wastes, and carbon dioxide injected for geologic sequestration. Owners or operators of injection wells must obtain permits, conduct environmental monitoring, maintain records, and report results to the EPA or the state agency (if the state has UIC primary enforcement responsibility (primacy)). States must report to the EPA on permittee compliance and related information. This mandatory information is reported using standardized forms and annual reports. The governing regulations are codified in the Code of Federal Regulations (CFR) at 40 CFR parts 144 through 148. Reporting data are used by UIC authorities to ensure the protection of USDWs.

Form Numbers: 7520-1, 7520-2A, 7520-28, 7520-3, 7520-4, 7520-6,

7520-7, 7520-8, 7520-9, 7520-10, 7520-11, 7520-12, 7520-14, 7520-16, and 7520-17.

Respondents/affected entities: Owners or operators of underground injection wells and state UIC primacy agencies.

Respondent's obligation to respond: Mandatory (40 CFR parts 140 through 148).

Estimated number of respondents: 35,385 (total).

Frequency of response: Annual, semi-annual, and quarterly.

Total estimated burden: 1,617,274 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$319,605,059 (per year), includes \$243,531,752 annualized capital or operation and maintenance costs.

Changes in estimates: Changes and developments in many aspects of the UIC program during the previous ICR period directly impact the estimates used in this ICR extension. For example, variations in permitting and closures across well classes and well inventory, revisions to UIC primacy programs, efforts to streamline the permit application process, alterations to state and operator reporting systems and other factors all cause variations in the ICR estimates. For the UIC ICR extension there is an increase of 325,014 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This increase is due to changes in the injection well inventory and adjustments to the number of permit applications (particularly for Class VI wells) that are expected to be prepared and reviewed.

Jennifer L. McLain,

Director, Office of Ground Water and Drinking Water.

[FR Doc. 2021-18240 Filed 8-24-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-8776-01-R9]

Public Water System Supervision Program Revision for the State of Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of Arizona (State) revised its Public Water System Supervision (PWSS) Program under the federal Safe Drinking Water Act (SDWA) by adopting regulations to implement the

federal Stage 1 and Stage 2 Disinfectants and Disinfection Byproducts Rules (DBPRs). The Environmental Protection Agency (EPA) has determined that the State's revisions are no less stringent than the corresponding Federal regulations and otherwise meet applicable SDWA primacy requirements. Therefore, EPA intends to approve the stated revisions as part of the State's PWSS Program.

DATES: A request for a public hearing must be received on or before September 24, 2021.

ADDRESSES: All documents relating to this determination are available for inspection online at <http://azdeq.gov/notices>. In addition, documents relating to this determination are available for inspection by appointment between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, except official State or Federal holidays at the following address: Arizona Department of Environmental Quality, Records Center, 1110 West Washington Street, Phoenix, AZ 85007. Please contact the ADEQ Records Center at (602) 771-4380 or <http://azdeq.gov/node/219> to schedule an appointment.

FOR FURTHER INFORMATION CONTACT:

Daria Evans-Walker, United States Environmental Protection Agency, Region 9, Drinking Water Section via telephone number: (415) 972-3451 or email address: evans-walker.daria@epa.gov.

SUPPLEMENTARY INFORMATION:

Background. EPA approved the State's initial application for PWSS Program primary enforcement authority ("primacy") on August 25, 1978 (43 FR 38083). Since initial approval, EPA has approved various revisions to Arizona's PWSS Program. For the revisions covered by this action, the EPA promulgated the Stage 1 DBP Rule on December 16, 1998 (63 FR 69390-69476) with revisions to the Stage 1 DBP Rule on January 16, 2001 (66 FR 3770-3780). EPA promulgated the Stage 2 DBP Rule on January 2, 2006 (71 FR 388-493) and published Stage 2 DBP Rule corrections on January 27, 2006 (71 FR 4644), June 29, 2006 (71 FR 37168) and November 14, 2008 (73 FR 67456-67463). The EPA promulgated the Stage 1 and Stage 2 DBPRs to reduce drinking water exposure to disinfection byproducts by setting standards for additional disinfection byproducts, establishing maximum residual disinfectant levels for chemical disinfectants, and tightening compliance monitoring requirements. EPA has determined that the Stage 1 and Stage 2 DBPRs were incorporated by reference into the Arizona

Administrative Code (AAC), Title 18, Chapter 4, in a manner that Arizona's regulations are comparable to and no less stringent than the federal requirements. EPA has also determined that the State's primacy revision meets all of the regulatory requirements for approval, as set forth in 40 CFR 142.12, including a side-by-side comparison of the Federal requirements and the corresponding State authorities, additional materials to support special primacy requirements of 40 CFR 142.16, and a statement by the Arizona Attorney General certifying that Arizona's laws and regulations adopted by the State to carry out the program revisions were duly adopted and are enforceable. Furthermore, Arizona has an audit privilege law and has provided a legal opinion that Arizona's audit privilege law does not impact the State's ability to implement or enforce its PWSS program. Therefore, EPA is tentatively approving the State's revisions as part of Arizona's PWSS Program.

Public Process. Any interested party may request a public hearing on this determination. A request for a public hearing must be received or postmarked before September 22, 2021, and addressed to the Regional Administrator at the EPA Region 9 via the following email address: R9dw-program@epa.gov. Please note, "State Primacy Rule Determination" in the subject line of the email. The Regional Administrator may deny frivolous or insubstantial requests for a hearing. If a substantial request for a public hearing is made before September 24, 2021, EPA Region 9 will hold a public hearing. Any request for a public hearing shall include the following information: 1. The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; 2. A brief statement of the requesting person's interest in the Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and 3. The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

If EPA Region 9 does not receive a timely and appropriate request for a hearing and the Regional Administrator does not elect to hold a hearing on her own motion, this determination shall become final and effective on September 24, 2021, and no further public notice will be issued.

Authority: Section 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 300g-2 (1996), and 40 CFR part

142 of the National Primary Drinking Water Regulations.

Dated: July 28, 2021.

Deborah Jordan,

Acting Regional Administrator, EPA Region 9.

[FR Doc. 2021-18014 Filed 8-24-21; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060-1222; FR ID 44613]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before October 25, 2021. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to Nicole.Ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418-2991.

OMB Control Number: 3060-1222.

Title: Inmate Calling Services Annual Reporting, Certification, Consumer Disclosure, and Waiver Request Requirements.

Form Number(s): FCC Form 2301(a) and FCC Form 2301(b).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit.

Number of Respondents and Responses: 20 respondents; 23 responses.

Estimated Time per Response: 5 hours-80 hours.

Frequency of Response: Annual reporting; on occasion; and third party disclosure requirements.

Obligation to Respond: Statutory authority for this information collection is contained in sections 1, 4(i)-(j), 201(b), 218, 220, 225, 255, 276, 403, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)-(j), 201(b), 218, 220, 225, 255, 276, 403 and 617.

Total Annual Burden: 2,940 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission anticipates treating as presumptively confidential any particular information identified as proprietary by providers of inmate calling services (ICS).

Needs and Uses: Section 201 of the Communications Act of 1934 Act, as amended (Act), 47 U.S.C. 201, requires that ICS providers' interstate and international rates and practices be just and reasonable. Section 276 of the Act, 47 U.S.C. 276, requires that payphone service providers (including ICS providers) be fairly compensated for completed calls.

On May 24, 2021, the Commission released the Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking, WC Docket No. 12-375, FCC 21-60 (2021 ICS Order), in which it continued its reform of the ICS marketplace. In that Order, the Commission, among other things, lowered the interstate interim rate caps; reformed the current treatment of site commission payments; eliminated the separate interstate collect calling rate caps; reformed the ancillary service rules for third-party financial

fees; capped, for the first time, international calling rates; adopted a new mandatory data collection to gather data to set permanent rates; and reaffirmed providers' obligations regarding access for incarcerated people with disabilities.

The reforms also included expanded consumer disclosure requirements, as well as new reporting requirements for ICS providers seeking waiver of the Commission's interstate and international rate caps. In connection with international rates, the Commission required that providers must separately disclose the rate component for terminating calls to each country where that provider terminates international calls.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison, Office of the Secretary.

[FR Doc. 2021-18290 Filed 8-24-21; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92-237; FR ID 44580]

Federal Advisory Committee, North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice of intent to renew the charter for the North American Numbering Council.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) hereby announces that the charter of the North American Numbering Council (hereinafter Committee) will be renewed for a two-year period pursuant to the Federal Advisory Committee Act (FACA) and following consultation with the Committee Management Secretariat, General Services Administration.

ADDRESSES: Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Christi Shewman, Designated Federal Officer, Federal Communications Commission, Wireline Competition Bureau, (202) 418-0646 or email: Christi.Shewman@fcc.gov.

SUPPLEMENTARY INFORMATION: After consultation with the General Services Administration, the Commission intends to renew the charter on or before September 13, 2021 providing the Committee with authorization to operate for two years. The purpose of the Committee is to advise the Commission

and to make recommendations that foster efficient and impartial North American Numbering Plan administration. The Committee will advise the Commission on numbering policy and technical issues in areas of responsibility the Commission has entrusted to the Committee, with a focus on examining numbering in the changing world of communications.

Advisory Committee

The Committee will be organized under, and will operate in accordance with, the provisions of the Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2). The Committee will be solely advisory in nature. Consistent with FACA and its requirements, each meeting of the Committee will be open to the public unless otherwise noticed. A notice of each meeting will be published in the **Federal Register** at least fifteen (15) days in advance of the meeting. Records will be maintained of each meeting and made available for public inspection. All activities of the Committee will be conducted in an open, transparent, and accessible manner. The Committee shall terminate two (2) years from the filing date of its charter, or earlier upon the completion of its work as determined by the Chair of the FCC, unless its charter is renewed prior to the termination date. During the Committee's next term, it is anticipated that the Committee will meet in Washington, DC and/or virtually, at the discretion of the Commission, approximately four (4) times a year. The first meeting date and agenda topics will be described in a Public Notice issued and published in the **Federal Register** at least fifteen (15) days prior to the first meeting date. In addition, as needed, working groups or subcommittees will be established to facilitate the Committee's work between meetings of the full Committee. Meetings of the Committee will be fully accessible to individuals with disabilities.

(5 U.S.C. app 2)

Federal Communications Commission.

Daniel Kahn,

Associate Bureau Chief, Wireline Competition Bureau.

[FR Doc. 2021-18320 Filed 8-24-21; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 19-329; FRS 44721]

Federal Advisory Committee Act; Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (FCC or Commission) Task Force for Reviewing the Connectivity and Technology Needs of Precision Agriculture in the United States (Task Force) will hold its next meeting via live internet link.

DATES: September 14, 2021. The meeting will come to order at 3:00 p.m. EDT.

ADDRESSES: The meeting will be held via conference call and be available to the public via live feed from the FCC's web page at www.fcc.gov/live.

FOR FURTHER INFORMATION CONTACT:

Jesse Jachman, Designated Federal Officer, Federal Communications Commission, Wireline Competition Bureau, (202) 418-2668, or email: Jesse.Jachman@fcc.gov; Elizabeth Cuttner, Deputy Designated Federal Officer, Federal Communications Commission, Wireline Competition Bureau, (202) 418-2145, or email Elizabeth.Cuttner@fcc.gov; or Stacy Ferraro, Deputy Designated Federal Officer, Wireless Telecommunications Bureau, (202) 418-0795 or email Stacy.Ferraro@fcc.gov.

SUPPLEMENTARY INFORMATION: The meeting will be held on September 14, 2021 at 3:00 p.m. EDT and may be viewed live, by the public, at <http://www.fcc.gov/live>. Any questions that arise during the meeting should be sent to PrecisionAgTF@fcc.gov and will be answered at a later date. Members of the public may submit comments to the Task Force in the FCC's Electronic Comment Filing System, ECFS, at www.fcc.gov/ecfs. Comments to the Task Force should be filed in GN Docket No. 19-329.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to fcc504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice). Such requests should include a detailed

description of the accommodation needed. In addition, please include a way the FCC can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may not be possible to fill.

Proposed Agenda: At this meeting, the Task Force will hear updates from the Working Group leadership and discuss progress towards recommendations. This agenda may be modified at the discretion of the Task Force Chair and the Designated Federal Officer.

Federal Communications Commission.

Katura Jackson.

Federal Register Liaison Officer.

[FR Doc. 2021-18301 Filed 8-24-21; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

TIME AND DATE: Tuesday, August 31, 2021 at 10:00 a.m. and its Continuation at the Conclusion of the Open Meeting on September 2, 2021.

PLACE: 1050 First Street NE, Washington, DC. (This Meeting Will be a Virtual Meeting).

STATUS: This Meeting will be Closed to the Public.

MATTERS TO BE CONSIDERED: Compliance matters pursuant to 52 U.S.C. 30109.

Investigatory records compiled for law enforcement purposes and production would disclose investigative techniques.

Matters concerning participation in civil actions or proceedings or arbitration.

* * * * *

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694-1220.

Vicktoria J. Allen,

Acting Deputy Secretary of the Commission.

[FR Doc. 2021-18372 Filed 8-23-21; 11:15 am]

BILLING CODE 6715-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary by email at Secretary@fmc.gov, or by mail, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in

the **Federal Register**. Copies of the agreements are available through the Commission's website (www.fmc.gov) or by contacting the Office of Agreements at (202)-523-5793 or tradeanalysis@fmc.gov.

Agreement No.: 012457-001.

Agreement Name: Siem Car Carriers AS/"K" Line Space Charter Agreement.

Parties: Kawasaki Kisen Kaisha, Ltd. And Siem Car Carriers AS.

Filing Party: Ashley Craig; Venable LLP.

Synopsis: The amendment revises the scope of the authority of the Agreement to remove joint procurement and joint negotiation authority.

Proposed Effective Date: 9/30/2021.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1943>.

Agreement No.: 201369.

Agreement Name: ONE/OOCL Slot Exchange Agreement.

Parties: Ocean Network Express Pte. Ltd.; and Orient Overseas Container Line Limited.

Filing Party: Joshua Stein; Cozen O'Connor.

Synopsis: The amendment would authorize the parties to exchange slots on their respective services in the between ports in Japan and The People's Republic of China on the one hand, and U.S. ports in the Pacific coast range on the other hand. It would also authorize the parties to enter into cooperative working arrangements in connection therewith.

Proposed Effective Date: 10/1/2021.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/50503>.

Agreement No.: 201370.

Agreement Name: Shanghai Jinjiang Shipping (Group) Co., Ltd and C. U. Lines Limited Slot Charter Exchange Agreement.

Parties: Shanghai Jinjiang Shipping (Group) Co., Ltd. and C. U. Lines Limited.

Filing Party: Neal Mayer; Hoppel, Mayer & Coleman.

Synopsis: The Agreement authorizes the parties to jointly operate a service string in the trade between China and the U.S. Pacific Coast.

Proposed Effective Date: 8/18/2021.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/50505>.

Agreement No.: 201371.

Agreement Name: Transfar/SJJ Space Charter Agreement.

Parties: Transfar Shipping Pte. Ltd. and Shanghai Jinjiang Shipping (Group) Co., Ltd.

Filing Party: Neal Mayer; Hoppel, Mayer & Coleman.

Synopsis: The Agreement authorizes Transfar to charter space to Shanghai Jinjiang in the trade between China and the U.S. Pacific Coast.

Proposed Effective Date: 8/18/2021.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/50506>.

Agreement No.: 011075-081.

Agreement Name: Central America Discussion Agreement.

Parties: King Ocean Services Limited; Seaboard Marine, Ltd.; Great White Fleet Corp.; Dole Ocean Cargo Express, LLC; Crowley Latin America Services, LLC, and Tropical Shipping & Construction Company Limited, LLC.

Filing Party: Wayne Rohde; Cozen O'Connor.

Synopsis: The amendment adds Tropical Shipping & Construction Company Limited, LLC as a party to the agreement and adds a new Article 5.07 clarifying the authority of the parties with respect to "certain covered services."

Proposed Effective Date: 10/2/2021.

Location: <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/1332>.

Dated: August 20, 2021.

Rachel Dickon,

Secretary.

[FR Doc. 2021-18288 Filed 8-24-21; 8:45 am]

BILLING CODE 6730-02-P

FEDERAL MARITIME COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Notice and request for comments.

SUMMARY: The Federal Maritime Commission (Commission) is giving public notice that the agency has submitted to the Office of Management and Budget (OMB) for approval the continuing information collection (extension with no changes) described in this notice. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted at the addresses below on or before September 24, 2021.

ADDRESSES: Comments should be addressed to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Shannon Joyce, Desk Officer for Federal Maritime Commission, OIRA_Submission@OMB.EOP.GOV, Fax (202) 395-5167.

and to:

Lucille L. Marvin, Managing Director,
Office of the Managing Director, Federal
Maritime Commission, omd@fmc.gov.

FOR FURTHER INFORMATION CONTACT:

Copies of the information collections
and instructions, or copies of any
comments received, may be obtained by
contacting phone at (202) 523-5800 or
by email at omd@fmc.gov.

SUPPLEMENTARY INFORMATION:

Request for Comments

Pursuant to the Paperwork Reduction
Act of 1995 (Pub. L. 104-13), the
Commission invites the general public
and other Federal agencies to comment
on proposed information collections as
on April 29, 2021, the Commission
published a notice and request for
comments in the **Federal Register** (86
FR 22666) regarding the agency's
request for continued approval from
OMB for information collections as
required by the Paperwork Reduction
Act of 1995. The Commission received
no comments on the request for
extension of OMB clearance. The
Commission has submitted the
described information collection to
OMB for approval.

In response to this notice, comments
and suggestions should address one or
more of the following points: (1) The
necessity and utility of the proposed
information collection for the proper
performance of the agency's functions;
(2) the accuracy of the estimated
burden; (3) ways to enhance the quality,
utility, and clarity of the information to
be collected; and (4) the use of
automated collection techniques or
other forms of information technology to
minimize the information collection
burden.

**Information Collections Open for
Comment**

Title: 46 CFR part 565—Controlled
Carriers.

OMB Approval Number: 3072-0060
(Expires September 30, 2021).

Abstract: 46 U.S.C. 40701-40706
requires that the Commission monitor
the practices of controlled carriers to
ensure that they do not maintain rates
or charges in their tariffs and service
contracts that are below a level that is
just and reasonable; nor establish,
maintain or enforce unjust or
unreasonable classifications, rules or
regulations in those tariffs or service
contracts which result or are likely to
result in the carriage or handling of
cargo at rates or charges that are below
a just and reasonable level. 46 CFR part
565 establishes the method by which
the Commission determines whether a

particular ocean common carrier is a
controlled carrier subject to 46 U.S.C.
40701-40706. When a government
acquires a controlling interest in an
ocean common carrier, or when a
controlled carrier newly enters a United
States trade, the Commission's rules
require that such a carrier notify the
Commission of these events.

Current Actions: There are no changes
to this information collection, and it is
being submitted for extension purposes
only.

Type of Review: Extension.

Needs and Uses: The Commission
uses these notifications in order to
effectively discharge its statutory duty
to determine whether a particular ocean
common carrier is a controlled carrier
and therefore subject to the
requirements of 46 U.S.C. 40701-40706.

Frequency: The submission of
notifications from carriers is not
assigned to a specific time frame by the
Commission; they are submitted as
circumstances warrant.

Type of Respondents: Ocean common
carriers when a majority portion of the
carrier becomes owned or controlled by
a government, or when a controlled
carrier newly begins operation in any
United States trade.

Number of Annual Respondents:
Based on filings over the past three
years, the Commission estimates one
respondent annually.

Estimated Time per Response: The
estimated time for each notification is 2
hours.

Total Annual Burden: For purposes of
calculating total annual burden, the
Commission assumes one response
annually. The Commission thus
estimates the total annual burden to be
2 hours (1 response × 2 hours per
response).

Rachel Dickon,

Secretary.

[FR Doc. 2021-18304 Filed 8-24-21; 8:45 am]

BILLING CODE 6730-02-P

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**

**Centers for Disease Control and
Prevention**

**Notice of Award of a Single-Source
Cooperative Agreement to Fund the
Association of University Centers on
Disability**

AGENCY: Centers for Disease Control and
Prevention (CDC), Department of Health
and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Disease
Control and Prevention (CDC), located
within the Department of Health and
Human Services (HHS) announces the
award of approximately \$3,190,000 in
coronavirus disease 2019 (COVID-19)
funding in response to an unsolicited
application that has been submitted by
the Association of University Centers on
Disability (AUCD) to address vaccine
hesitancy among people with
disabilities, their families and direct
support professionals.

DATES: The period for this award will be
September 30, 2021 through September
29, 2022.

FOR FURTHER INFORMATION CONTACT:

Carlinda Nelson, National Center on
Birth Defects and Developmental
Disabilities, Centers for Disease Control
and Prevention, 4770 Buford Highway,
MS E-88, Atlanta, GA 30341,
Telephone: 800-232-6348.

SUPPLEMENTARY INFORMATION: The
single-source award will address
vaccine hesitancy and accessibility
among people with disabilities, their
families, and direct support
professionals who provide care for
people with disabilities.

This award is being made non-
competitively because there is no
current, pending, or planned funding
opportunity announcement under
which this proposal could compete.

AUCD will be awarded a single-
source cooperative agreement because of
their specific experience and capacity to
rapidly organize a national network of
interdisciplinary disability partners as
well as their leadership of a national
disability preparedness initiative led by
individuals with disabilities and
disability subject matter experts.

AUCD leads the Prepared4ALL
initiative and National Technical
Assistance and Training Center on
Disability Inclusion in Emergency
Preparedness, which reaches a broad
range of individuals with disabilities in
states, cities and communities. This
funding mechanism and partnership
will support national disability and
direct support professional
organizations to address vaccination
barriers and build vaccine confidence
among people with disabilities and their
caregivers who have not yet received a
COVID-19 vaccine. AUCD is uniquely
qualified to support this work because
of their breadth of partnerships with
disability organizations who have state-
wide, disability and disability-serving
networks as well as their already
established connections to national,
state, and local health authorities on
development and implementation of
strategies to improve vaccine access and

build confidence within communities for people with disabilities.

Summary of the Award

Recipient: Association of University Centers on Disability (AUCD)

Purpose of the Award: The purpose of this award is to identify people with disabilities, their families and family caregivers, and their direct support professionals that remain unvaccinated against COVID-19 and focus on interpersonal engagement and unique and innovative strategies to reduce hesitancy and improve vaccine uptake in these individuals. The recipient will be expected to work with a range of national disability and direct support professional organizations to train known and trusted vaccination champions to increase interpersonal communication with trusted and familiar messengers within disability networks, as well as develop culturally relevant, accessible, easy-to-read and understand communication resources on COVID-19 vaccination.

Amount of Award: \$3,190,000 in Federal Fiscal Year (FFY) 2021 funds for a one-year period of performance, subject to availability of funds.

Authority: 42 U.S.C. 247b-8 and Public Law 116-260, Division M, Title III.

Period of Performance: September 30, 2021 through September 29, 2022.

Dated: August 20, 2021.

Joseph I. Hungate III,

Deputy Director, Office of Financial Resources, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021-18324 Filed 8-24-21; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS-179]

Agency Information Collection Activities: Submission for OMB Review; 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 (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 a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate 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 on the collection(s) of information must be received by the OMB desk officer by September 24, 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.

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 Parham at (410) 786-4669.

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. 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 (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-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 that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicaid State Plan Base Plan Pages; *Use:* State Medicaid agencies complete the plan pages while we review the information to determine if the state has met all of the requirements of the provisions the states choose to implement. If the requirements are met, we will approve the amendments to the state's Medicaid plan giving the state the authority to implement the flexibilities. For a state to receive Medicaid Title XIX funding, there must be an approved Title XIX state plan. *Form Number:* CMS-179 (OMB control number 0938-0193); *Frequency:* Occasionally; *Affected Public:* State, Local, and Tribal Governments; *Number of Respondents:* 56; *Total Annual Responses:* 1,120; *Total Annual Hours:* 22,400. (For policy questions regarding this collection contact Gary Knight at 304-347-5723.)

Dated: August 19, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021-18245 Filed 8-24-21; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Refugee Support Services (RSS) and RSS Set Aside Sub-Agency List (0970-0556)

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) Office of Refugee Resettlement (ORR) seeks approval for a revision to an existing information collection, requesting Refugee Support Services (RSS) grantees and RSS Set Aside grantees to provide the agency name, city, state, website, and funding amount for each contracted sub-grantee. Additionally, ORR seeks approval to have the option to make this information public. This would enhance the accessibility of refugee service provider information to eligible clients

in support of the service referral responsibilities of the State Refugee Coordinators. Similar information for ORR's discretionary grants is currently made public.

DATES: *Comments due within 30 days of publication.* The Office of Management and Budget (OMB) is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: This data collection requests RSS grantees and RSS Set Aside grantees to provide the agency name, city, state, website, and funding amount for each contracted sub-grantee.

The information will be used for national resource mapping pertaining to ORR RSS funding at the local level.

Improved knowledge of all local providers is important to ORR's overall oversight of the program. In addition to RSS formula funding to states and state replacement agencies who then issue sub-awards to local providers, ORR also awards discretionary grants that directly fund local refugee service providers. This report will provide ORR a complete picture of the availability all ORR resources to assist newly arrived refugees at the local level increasing our ability to identify gaps or target areas of need.

Respondents: State governments and replacement designees.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
RSS and RSS Set Aside Sub-grantee List	56	3	2	336	112

Estimated Total Annual Burden Hours: 112.

Authority: Refugee Act of 1980 [Immigration and Nationality Act, Title IV, Chapter 2 Section 412(e)] and 45 CFR 400.28.

Mary B. Jones,
ACF/OPRE Certifying Officer.

[FR Doc. 2021-18307 Filed 8-24-21; 8:45 am]

BILLING CODE 4184-45-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2012-N-0961]

Agency Information Collection Activities; Proposed Collection; Comment Request; Environmental Impact Considerations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice

solicits comments on "Environmental Impact Considerations."

DATES: Submit either electronic or written comments on the collection of information by October 25, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before October 25, 2021. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of October 25, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact

information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2012-N-0961 for "Environmental Impact Considerations." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

• **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal

Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Environmental Impact Considerations

OMB Control Number 0910–0322—Extension

I. Background

FDA is requesting OMB approval for the reporting requirements contained in the FDA collection of information “Environmental Impact Considerations.” The National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4347) states national environmental objectives and imposes upon each Federal Agency the duty to consider the environmental effects of its actions. Section 102(2)(C) of NEPA requires the preparation of an environmental impact statement (EIS) for every major Federal action that will significantly affect the quality of the human environment.

FDA’s NEPA regulations are in part 25 (21 CFR part 25). All applications or petitions requesting Agency action require the submission of a claim for categorical exclusion or an environmental assessment (EA). A categorical exclusion applies to certain classes of FDA-regulated actions that usually have little or no potential to cause significant environmental effects and are excluded from the requirements to prepare an EA or EIS. In § 25.15(a) and (d) (21 CFR 25.15(a) and (d)) the procedures for submitting to FDA a claim for a categorical exclusion are specified. Extraordinary circumstances (under 21 CFR 25.21), which may result

in significant environmental impacts, may exist for some actions that are usually categorically excluded. An EA provides information that is used to determine whether an FDA action could result in a significant environmental impact. Section 25.40(a) and (c) (21 CFR 25.40(a) and (c)) specifies the content requirements for EAs for non-excluded actions.

This collection of information is used by FDA to assess the environmental impact of Agency actions and to ensure that the public is informed of environmental analyses. Firms wishing to manufacture and market substances regulated under statutes for which FDA is responsible must, in most instances, submit applications requesting approval. Environmental information must be included in such applications for the purpose of determining whether the proposed action may have a significant impact on the environment. Where significant adverse events cannot be avoided, the Agency uses the submitted information as the basis for preparing and circulating to the public an EIS, made available through a **Federal Register** document also filed for comment at the Environmental Protection Agency. The final EIS, including the comments received, is reviewed by the Agency to weigh environmental costs and benefits in determining whether to pursue the proposed action or some alternative that would reduce expected environmental impact.

Any final EIS would contain additional information gathered by the Agency after the publication of the draft EIS, a copy or a summary of the comments received on the draft EIS, and the Agency’s responses to the comments, including any revisions resulting from the comments or other information. When the Agency finds that no significant environmental effects are expected, the Agency prepares a finding of no significant impact.

FDA estimates the burden of this collection of information as follows:

II. Estimated Annual Reporting Burden for Human Drugs (Including Biologics in the Center for Drug Evaluation and Research)

Under §§ 312.23(a)(7)(iv)(e), 314.50(d)(1)(iii), and 314.94(a)(9)(i) (21 CFR 312.23(a)(7)(iv)(e), 314.50(d)(1)(iii), and 314.94(a)(9)(i)), each investigational new drug application (IND), new drug application (NDA), and abbreviated new drug application (ANDA) must contain a claim for categorical exclusion under § 25.30 (21 CFR 25.30) or § 25.31 (21 CFR 25.31), or an EA under § 25.40. Annually, FDA receives approximately

5,503 INDs from 3,717 sponsors; 142 NDAs from 111 applicants; 3,285 supplements to NDAs from 516 applicants; 35 biologic license applications (BLAs) from 32 applicants; 777 supplements to BLAs from 89 applicants; 743 ANDAs from 239 applicants; and 11,438 supplements to

ANDAs from 482 applicants. FDA estimates that it receives approximately 21,923 claims for categorical exclusions as required under § 25.15(a) and (d) and 13 EAs as required under § 25.40(a) and (c). Based on information provided by the pharmaceutical industry, FDA estimates that it takes sponsors or

applicants approximately 8 hours to prepare a claim for a categorical exclusion and approximately 3,400 hours to prepare an EA. Based on recent numbers, we now estimate a total of 21,936 annual responses and 219,584 hours for human drugs (an increase of 6,489 responses and 62,088 hours).

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN DRUGS ¹

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
25.15(a) and (d)	5,186	4.2273	21,923	8	175,384
25.40(a) and (c)	14	0.9285	13	3,400	44,200
Total					219,584

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Estimated Annual Reporting Burden for Medical Devices

Under § 814.20(b)(11) (21 CFR 814.20(b)(11)), premarket approval applications (PMAs) (original PMAs and supplements) must contain a claim for categorical exclusion under § 25.30 or § 25.34 (21 CFR 25.34) or an EA under

§ 25.40. In 2020, FDA received an average of 62 claims (original PMAs and supplements) for categorical exclusions as required under § 25.15(a) and (d), and 0 EAs as required under § 25.40(a) and (c). FDA estimates that approximately 62 respondents will submit an average of 1 application for categorical exclusion annually. Based on

information provided by sponsors, FDA estimates that it takes approximately 6 hours to prepare a claim for a categorical exclusion. Based on recent numbers, we now estimate a total of 62 annual responses and 372 hours for medical devices (an increase of 12 responses and 72 hours).

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN FOR MEDICAL DEVICES ¹

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
25.15(a) and (d)	62	1	62	6	372

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

IV. Estimated Annual Reporting Burden for Biological Products, Drugs, and Medical Devices in the Center for Biologics Evaluation and Research

Under 21 CFR 601.2(a), BLAs as well as INDs (§ 312.23), NDAs (§ 314.50), ANDAs (§ 314.94), and PMAs (§ 814.20) must contain either a claim of categorical exclusion under § 25.30 or § 25.32 (21 CFR 25.32) or an EA under § 25.40. Annually, FDA receives approximately 11 BLAs from 11 applicants, 1,080 BLA supplements to license applications from 160 applicants, 7,017 INDs from 2,087

sponsors, 1 NDA from 1 applicant, 16 supplements to NDAs from 6 applicants, 1 ANDA from 1 applicant, 3 supplements to ANDAs from 2 applicants, 1 PMA from 1 applicant, and 79 PMA supplements from 19 applicants. FDA estimates that approximately 10 percent of these supplements would be submitted with a claim for categorical exclusion or an EA.

FDA estimates that it has received approximately 7,150 claims for categorical exclusion as required under § 25.15(a) and (d) annually and 4 EAs as required under § 25.40(a) and (c) annually. Therefore, FDA estimates that

approximately 3,575 respondents will submit an average of 2 applications for categorical exclusion, and 4 respondents will submit an average of 1 EA. Based on information provided by industry, FDA estimates that it takes sponsors and applicants approximately 8 hours to prepare a claim of categorical exclusion and approximately 3,400 hours to prepare an EA for a biological product. Based on recent numbers, we now estimate a total of 7,154 annual responses and 70,800 hours for biological products (an increase of 6,658 responses and 60,048 hours).

TABLE 3—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICAL PRODUCTS ¹

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
25.15(a) and (d)	3,575	2	7,150	8	57,200
25.40(a) and (c)	4	1	4	3,400	13,600
Total					70,800

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

V. Estimated Annual Reporting Burden for Animal Drugs

Under 21 CFR 514.1(b)(14), new animal drug applications (NADAs) and abbreviated new animal drug applications (ANADAs); supplemental NADAs and ANADAs (21 CFR 514.8(a)(1)); investigational new animal drug applications (INADs) and generic investigational new animal drug applications (JINADs) (21 CFR

511.1(b)(10)); and food additive petitions (21 CFR 571.1(c)) must contain a claim for categorical exclusion under § 25.30 or § 25.32 or an EA under § 25.40. Annually, FDA's Center for Veterinary Medicine has received approximately 1,140 claims for categorical exclusion as required under § 25.15(a) and (d) and 9 EAs as required under § 25.40(a) and (c). Assuming an average of 10 claims per respondent, FDA estimates that approximately 114

respondents will submit an average of 10 claims for categorical exclusion. FDA further estimates that nine respondents will submit an average of one EA. FDA estimates that it takes sponsors/applicants approximately 3 hours to prepare a claim of categorical exclusion and an average of 2,160 hours to prepare an EA. Based on recent numbers, we now estimate a total of 22,860 hours for animal drugs (a decrease of 27,090 hours).

TABLE 4—ESTIMATED ANNUAL REPORTING BURDEN FOR ANIMAL DRUGS ¹

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
25.15(a) and (d)	114	10	1,140	3	3,420
25.40(a) and (c)	9	1	9	2,160	19,440
Total					22,860

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

VI. Estimated Annual Reporting Burden for Tobacco Products

Under sections 905, 910, and 911 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 387e, 387j, and 387k), product applications and supplements, premarket tobacco applications (PMTAs), substantial equivalence (SE), exemption from SE, and modified risk tobacco product applications (MRTPAs) must contain a claim for categorical exclusion or an EA. The majority of the EA burden for tobacco products is covered under already existing

information collections. The burden for SEs is currently approved under OMB control number 0910–0673; the burden for PMTAs are currently approved under OMB control number 0910–0768; the burden for SE exemptions are currently approved under OMB control number 0910–0684.

FDA's estimates are based on actual report data from fiscal year (FY) 2018 to FY 2020. On average, FDA estimated it received approximately 14 MRTPAs from 14 respondents. Based on updated data for this collection, FDA estimates 14 EAs from 14 respondents. A total of

14 respondents will submit an average of one application for environmental assessment. Based on FDA's experience, previous information provided by potential sponsors, and knowledge that part of the EA information has already been produced in one of the tobacco product applications, FDA estimates that it takes approximately 80 hours to prepare an EA. Based on recent MRTPA numbers, we now estimate a total of 14 annual responses and 1,120 hours for tobacco products (a decrease of 13 responses and 1,040 hours).

TABLE 5—ESTIMATED ANNUAL REPORTING BURDEN FOR TOBACCO PRODUCTS ¹

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
25.40(a) and (c)	14	1	14	80	1,120

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates the burden for this information collection to be 30,315 annual responses, and 314,736 hours. These estimates reflect an overall increase of 13,463 responses and 94,078 hours. These adjustments are attributed to an increase in the number of responses the various centers in FDA have received over the last few years.

Dated: August 6, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–18239 Filed 8–24–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–1216]

Electronic Common Technical Document; Data Standards; Specifications for the Electronic Common Technical Document Validation Criteria

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA or Agency) Center for Drug Evaluation and Research (CDER) and Center for Biologics Evaluation and Research (CBER) are announcing the date that FDA will begin rejecting submissions which fail Electronic Common Technical Document (eCTD) validations 1306 or 1323 that have been raised to high validation errors as described in the "Specifications for eCTD Validation Criteria."

FOR FURTHER INFORMATION CONTACT:

Jonathan Resnick, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 3160, Silver Spring, MD 20993-0002, 301-796-7997, Jonathan.Resnick@fda.hhs.gov; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

SUPPLEMENTARY INFORMATION: FDA is issuing this **Federal Register** notice to announce that eCTD validations 1306 and 1323, described in “Specifications for eCTD Validation Criteria,” have been raised to high validation errors. Beginning March 1, 2022, FDA will reject submissions that fail either of these validations.

According to the guidance for industry entitled “Providing Regulatory Submissions in Electronic Format—Certain Human Pharmaceutical Product Applications and Related Submissions Using the eCTD Specifications,” submissions subject to section 745A(a) of the Federal Food, Drug, and Cosmetic Act must be submitted in eCTD format using the version of eCTD currently supported by FDA (unless such submission is exempt from the electronic submission requirements or if FDA has granted a waiver). The version of eCTD currently supported by FDA is specified in the Data Standards Catalog. eCTD submissions must follow FDA eCTD technical specification entitled “The Comprehensive Table of Contents Headings and Hierarchy.” Documents which are not properly referenced in the eCTD backbone as described in the “M2 eCTD: Electronic Common Technical Document Specification” and “The eCTD Backbone Files Specification for Module 1,” result in content that is not accessible within FDA eCTD technical specification “The Comprehensive Table of Contents Headings and Hierarchy.” eCTD validations 1306 (“No leaf element for file”) and 1323 (“No file for leaf element”), within the “Specifications for eCTD Validation Criteria,” describe parts of the eCTD specifications which were not followed correctly. Rejection for failing to pass either eCTD validations 1306 or 1323 will begin on March 1, 2022.

Dated: August 18, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021-18303 Filed 8-24-21; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Food and Drug Administration**

[Docket No. FDA-2021-N-0356]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Establishment and Operation of Clinical Trial Data Monitoring Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by September 24, 2021.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to <https://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. The OMB control number for this information collection is 0910-0581. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT:

Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-5733, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Establishment and Operation of Clinical Trial Data Monitoring Committees

OMB Control Number 0910-0581—Extension

This collection of information supports Agency regulations and associated Agency guidance. Sponsors are required to monitor studies evaluating new drugs, biologics, and devices (21 CFR 312.50 and 312.56 for drugs and biologics, and 21 CFR 812.40

and 812.46 for devices). Various individuals and groups play different roles in clinical trial monitoring. One such group is a data monitoring committee (DMC), appointed by a sponsor to evaluate the accumulating outcome data in some trials. A clinical trial DMC is a group of individuals with pertinent expertise that reviews on a regular basis accumulating data from one or more ongoing clinical trials. The DMC advises the sponsor regarding the continuing safety of current trial subjects and those yet to be recruited to the trial, as well as the continuing validity and scientific merit of the trial.

The guidance document entitled “Guidance for Clinical Trial Sponsors: Establishment and Operation of Clinical Trial Data Monitoring Committees” (March 2006) is intended to assist sponsors of clinical trials in determining when a DMC is needed for monitoring a study and how such committees should operate and is available from our website at: <https://www.fda.gov/media/75398/download>. The guidance addresses the roles, responsibilities, and operating procedures of DMCs and describes certain reporting and recordkeeping responsibilities, including the following: (1) Sponsor reporting to FDA on DMC recommendations related to safety; (2) standard operating procedures (SOPs) for DMCs; (3) DMC meeting records; (4) sponsor notification to the DMC regarding waivers; and (5) DMC reports based on meeting minutes to the sponsor.

1. Sponsor Reporting to FDA on DMC Recommendations Related to Safety

The requirement of the sponsor to report DMC recommendations related to serious adverse events in an expedited manner in clinical trials of new drugs (§ 312.32(c)) (21 CFR 312.32(c)) would not apply when the DMC recommendation is related to an excess of events not classifiable as serious. Nevertheless, the Agency recommends in the guidance that sponsors inform FDA about all recommendations related to the safety of the investigational product whether or not the adverse event in question meets the definition of “serious.”

2. SOPs for DMCs

In the guidance, FDA recommends that sponsors establish procedures to do the following things:

- Assess potential conflicts of interest of proposed DMC members;
- ensure that those with serious conflicts of interest are not included in the DMC;

- provide disclosure to all DMC members of any potential conflicts that are not thought to impede objectivity and, thus, would not preclude service on the DMC;
- identify and disclose any concurrent service of any DMC member on other DMCs of the same, related, or competing products;
- ensure separation, and designate a different statistician to advise on the management of the trial, if the primary trial statistician takes on the responsibility for interim analysis and reporting to the DMC; and
- minimize the risks of bias that are associated with an arrangement under which the primary trial statistician takes on the responsibility for interim analysis and reporting to the DMC, if it appears infeasible or highly impractical for any other statistician to take over responsibilities related to trial management.

3. DMC Meeting Records

The Agency recommends in the guidance that the DMC or the group preparing the interim reports to the DMC maintain all meeting records. This information should be submitted to FDA with the clinical study report (21 CFR 314.50(d)(5)(ii)).

4. Sponsor Notification to the DMC Regarding Waivers

The sponsor must report to FDA certain serious and unexpected adverse events in drugs and biologics trials (§ 312.32) and unanticipated adverse device effects in the case of device trials (21 CFR 812.150(b)(1)). The Agency recommends in the guidance that sponsors notify DMCs about any waivers granted by FDA for expedited reporting of certain serious events.

5. DMC Reports of Meeting Minutes to the Sponsor

The Agency recommends in the guidance that DMCs should issue a written report to the sponsor based on the DMC meeting minutes. Reports to the sponsor should include only those data generally available to the sponsor.

The sponsor may convey the relevant information in this report to other interested parties, such as study investigators. Meeting minutes or other information that include discussion of confidential data would not be provided to the sponsor.

Description of the Respondents: The submission and data collection recommendations described in this document affect sponsors of clinical trials and DMCs.

Burden Estimate: Table 1 of this document provides the burden estimate of the annual reporting burden for the information to be submitted in accordance with the guidance. Table 2 of this document provides the burden estimate of the annual recordkeeping burden for the information to be maintained in accordance with the guidance. Table 3 of this document provides the burden estimate of the annual third-party disclosure burden for the information to be submitted in accordance with the guidance.

Reporting, Recordkeeping, and Third-Party Disclosure Burdens: Based on information from FDA review divisions, FDA estimates that there are approximately 740 clinical trials with DMCs regulated by the Center for Biologics Evaluation and Research, the Center for Drugs Evaluation and Research, and the Center for Devices and Radiological Health. FDA estimates that the average length of a clinical trial is 2 years, resulting in an annual estimate of 370 clinical trials. Because FDA has no information on which to project a change in the use of DMCs, FDA estimates that the number of clinical trials with DMCs will not change significantly. For purposes of this information collection, FDA estimates that each sponsor is responsible for approximately 10 trials, resulting in an estimated 37 sponsors that are affected by the guidance annually.

Based on information provided to FDA by sponsors that have typically used DMCs for the kinds of studies for which this guidance recommends them, FDA estimates that the majority of

sponsors have already prepared SOPs for DMCs, and only a minimum amount of time is necessary to revise or update them for use for other clinical studies. FDA receives very few requests for waivers regarding expedited reporting of certain serious events; therefore, FDA has estimated one respondent per year to account for the rare instance a request may be made. Based on FDA’s experience with clinical trials using DMCs, FDA estimates that the sponsor on average would issue two interim reports per clinical trial to the DMC. FDA estimates that the DMCs would hold two meetings per year per clinical trial resulting in the issuance of two DMC reports of meeting minutes to the sponsor. One set of both of the meeting records should be maintained per clinical trial.

The “Average Burden per Response” and “Average Burden per Recordkeeping” are based on FDA’s experience with comparable recordkeeping and reporting provisions applicable to FDA regulated industry. The “Average Burden per Response” includes the time the respondent would spend reviewing, gathering, and preparing the information to be submitted to the DMC, FDA, or the sponsor. The “Average Burden per Recordkeeping” includes the time to record, gather, and maintain the information.

The information collection provisions in the guidance for 21 CFR 312.30, 312.32, 312.38, 312.55, and 312.56 have been approved under OMB control number 0910–0014; 21 CFR 314.50 has been approved under OMB control number 0910–0001; and 21 CFR 812.35 and 812.150 have been approved under OMB control number 0910–0078.

In the **Federal Register** of April 29, 2021 (86 FR 22690), we published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

Section of guidance/reporting activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
5.—Sponsor reporting to FDA on DMC recommendations related to safety.	37	1	37	0.50 (30 minutes) ...	18.5
Total .....	.....	.....	.....	.....	18.5

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

Section of guidance/recordkeeping activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
4.1. and 6.4—SOPs for DMCs	37	1	37	8	296
4.4.3.2.—DMC meeting records	370	1	370	2	740
Total					1,036

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN ¹

Section of guidance/disclosure activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
4.4.1.2.—Sponsor notification to the DMC regarding waivers.	1	1	1	0.25 (15 minutes) ...	0.25
4.4.3.2.—DMC reports of meeting minutes to the sponsor.	370	2	740	1	740
Total					740.25

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: August 5, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–18235 Filed 8–24–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration [Docket No. TSA–2004–19147]

Intent To Request Revision From OMB of One Current Public Collection of Information: Flight Training Security

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0021, that we will submit to OMB for a revision, in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves information necessary to conduct security threat assessments for all non-U.S. citizens, non-U.S. nationals, and other designated individuals seeking flight instruction (“candidates”) from Federal Aviation

Administration (FAA)-certified flight training providers. Pursuant to statute, TSA will use the information collected to determine whether a candidate poses or is suspected of posing a threat to aviation or national security, and is thus prohibited from receiving flight training. Additionally, flight training providers are required to conduct a security awareness training program for their employees and to maintain records associated with this training.

DATES: Send your comments by October 25, 2021.

ADDRESSES: Comments may be emailed to TSAPRA@dhs.gov or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at <http://www.reginfo.gov> upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for

the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency’s estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0021, Flight Training Security. Under 49 CFR part 1552, TSA conducts security threat assessments for all non-U.S. citizens, non-U.S. nationals, and other designated individuals seeking flight instruction with Federal Aviation Administration (FAA)-certified flight training providers.¹ The purpose of this requirement is to ensure flight training candidates do not pose a threat to aviation or national security and thus can be permitted to receive flight training. The collection of information required under 49 CFR part 1552 includes candidates’ biographic information and fingerprints, which TSA uses to perform the security threat assessment.

Additionally, flight training providers are required to maintain records of security awareness training provided to their employees. *See* subpart B of 49 CFR part 1552. This training, which is

¹ *See also* 49 U.S.C. 44939.

intended to increase awareness of suspicious circumstances and activities of individuals enrolling in, or attending, flight training, must be provided to certain employees within 60 days of being hired and on an annual recurring basis. The flight training providers must maintain records of the training completed throughout the course of the individual's employment, and for one year after the individual is no longer a flight training provider employee.

In accordance with the President's intent,² TSA is revising the information collection by changing the name of the collection from "*Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees*" to "*Flight Training Security*." TSA and other DHS components have already begun using alternative terminology to "alien" in documentation and systems.

TSA estimates a total of 39,496 respondents annually: 19,869 flight training candidates and 19,627 flight training providers. Respondents are required to provide the subject information every time a non-U.S. citizen, non-U.S. national, or other designated individual applies for flight training, as described in the regulation. TSA estimates a flight training application burden of 43,667 hours per year. Flight training providers must keep records for each flight training candidate and employee security awareness training. TSA estimates an annual average recordkeeping burden of 55,897 hours. Thus, TSA estimates the combined hour burden associated with this collection to be 99,564 hours annually.

Dated: August 19, 2021.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Office of Information Technology.

[FR Doc. 2021-18225 Filed 8-24-21; 8:45 am]

BILLING CODE 9110-05-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0001]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition for Alien Fiancé(e)

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until October 25, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615-0001 in the body of the letter, the agency name and Docket ID USCIS-2006-0028. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS-2006-0028.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721-3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2006-0028 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for Alien Fiancé(e).

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-129F; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Form I-129F must be filed

² Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize our Immigration System | The White House.

with U.S. Citizenship and Immigration Services (USCIS) by a citizen of the United States in order to petition for an alien spouse, finance(e), or child.

(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–129F is 47,700 and the estimated hour burden per response is 3.25 hours. The estimated total number of respondents for the information collection of Biometrics is 47,700 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 210,834 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 \$5,412,004.

Dated: August 19, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–18216 Filed 8–24–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0057]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Certificate of Citizenship

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until September 24, 2021.

ADDRESSES: Written comments and/or suggestions regarding the item(s)

contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at <http://www.regulations.gov> under e-Docket ID number USCIS–2006–0023. All submissions received must include the OMB Control Number 1615–0057 in the body of the letter, the agency name and Docket ID USCIS–2006–0023.

FOR FURTHER INFORMATION CONTACT:

USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, Telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <http://www.uscis.gov>, or call the USCIS Contact Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on May 18, 2021, at 86 FR 26933, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS–2006–0023 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Certificate of Citizenship.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–600; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Form N–600 collects information from applicants who are requesting a Certificate of Citizenship because they acquired United States citizenship either by birth abroad to a U.S. citizen parent(s), adoption by a U.S. citizen parent(s), or after meeting eligibility requirements including the naturalization of a foreign born parent. Form N–600 can also be filed by a parent or legal guardian on behalf of a minor child. The form standardizes requests for the benefit and ensures that basic information required to assess eligibility is provided by applicants.

USCIS uses the information collected on Form N–600 to determine if a Certificate of Citizenship can be issued to the applicant. Citizenship acquisition laws have changed over time and different laws apply to determine whether the applicant automatically became a U.S. citizen depending on the dates of relevant events, such as the child's date of birth.

USCIS may request that applicants who reside within the United States attend an appointment at a USCIS Application Support Center to have a photograph taken. USCIS may also require applicants to submit additional biometrics under 8 CFR 103.2(b)(9).

(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 N-600 (paper filing) is 27,500 and the estimated hour burden per response is 1.5 hours; the estimated total number of respondents for the information collection N-600 (online filing) is 27,500 and the estimated hour burden per response is 0.75 hours; the estimated total number of respondents for the information collection biometrics submission is 36,500 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 104,580 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 \$7,081,250.

Dated: August 19, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division,
Office of Policy and Strategy, U.S. Citizenship
and Immigration Services, Department of
Homeland Security.

[FR Doc. 2021-18221 Filed 8-24-21; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0032456;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and Pueblo Grande Museum, City of Phoenix, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, Bureau of Indian Affairs (BIA), assisted by the Pueblo Grande Museum (PGM), has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains

and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the BIA through the PGM. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the BIA through the PGM at the address in this notice by September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E Washington Street, Phoenix, AZ 85034, telephone (602) 534-1572, email lindsey.vogel-teeter@phoenix.gov.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the Pueblo Grande Museum, City of Phoenix, AZ. The human remains and associated funerary objects were removed from locations within the boundaries of the Gila River Indian Reservation, Maricopa and Pinal Counties, AZ, and the Salt River Reservation, Maricopa County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by BIA and PGM professional staff in consultation with representatives of the Gila River Indian

Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; and the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona.

History and Description of the Remains

In December of 1939, human remains representing, at minimum, seven individuals were removed from site AZ T:12:3(PGM)/AZ T:12:9(ASM)/SRVSS Site 6/Villa Buena, located within the boundaries of the Gila River Indian Reservation, Maricopa County, AZ, by personnel from the Salt River Valley Stratigraphic Survey (SRVSS) working out of PGM. These excavations were permitted by the U.S. Department of the Interior. The human remains have been housed in the collections of PGM since they were excavated. Some of them were not identified until 2018, when they were encountered during a review of the faunal collection. The human remains represent two inhumations and five cremations. The decedents range in age from child to adult and all are of indeterminate sex. No known individuals were identified. The 16 associated funerary objects are one miniature red-on-buff jar, one palette, one shell bracelet fragment, two turquoise fragments, one burnt daub fragment, one burnt insect nest, two lots of faunal bone, six lots of shell and/or botanicals, and one lot of stone and shell.

Site AZ T:12:3(PGM)/AZ T:12:9(ASM)/SRVSS Site 6/Villa Buena contained ballcourts, house mounds, and a compound. Based on ceramic types and architectural forms present, the site was likely occupied during the Sweetwater-Civano phases of the Hohokam cultural sequence (A.D. 550–1450).

In October of 1939, human remains representing, at minimum, three individuals were removed from site AZ U:9:15(PGM)/AZ U:9:13(ASM)/SRVSS Site 23, located within the boundaries of the Salt River Indian Reservation, Maricopa County, AZ, by personnel from the SRVSS working out of PGM. These excavations were permitted by the U.S. Department of the Interior. The human remains have been housed in the collections of PGM since they were excavated. The human remains represent two inhumations and one cremation. The decedents range in age from adolescent to old adult and all are of indeterminate sex. No known individuals were identified. The 10 associated funerary objects are two shell ornaments, one lot of shell fragments, two lots of faunal bones, one polishing stone, and four lots containing plainware and buffware sherds.

Site AZ U:9:15(PGM)/AZ U:9:13(ASM)/SRVSS Site 23 contained trash mounds, burials, and a canal. Based on ceramic types present, the site was likely occupied during the Estrella-Civano phases of the Hohokam cultural sequence (A.D. 450–1450).

In November of 1939, human remains representing, at minimum, one individual were removed from site AZ U:9:16(PGM)/SRVSS Site 24, located within the boundaries of the Salt River Indian Reservation, Maricopa County, AZ, by personnel from the SRVSS working out of PGM. These excavations were permitted by the U.S. Department of the Interior. The human remains have been housed in the collections of PGM since they were excavated. They were not identified until 2018, when they were encountered during a review of the faunal collection. The fragmentary remains belong to a middle-aged adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

Site AZ U:9:16(PGM)/SRVSS Site 24 contained a compound, a house mound, trash mounds, and a burial area. Based on material culture and architectural forms present, the site was likely occupied during the Estrella-Civano phases of the Hohokam cultural sequence (A.D. 450–1450). There is also evidence for later occupation during historic times (A.D. 1800–1939).

In March of 1939, human remains representing, at minimum, two individuals were removed from site AZ U:9:14(ASM)/SRVSS Site 25, located within the boundaries of the Salt River Indian Reservation, Maricopa County, AZ, by personnel from the SRVSS working out of PGM. These excavations were permitted by the U.S. Department of the Interior. The human remains have been housed in the collections of PGM since they were excavated. They were not identified until 2021, when they were encountered during a review of the faunal collection. The fragmentary remains belong to a child and an adult; both are of indeterminate sex. No known individuals were identified. No associated funerary objects are present.

Site AZ U:9:14(ASM)/SRVSS Site 25 contained a compound, a house mound, a trash mound, and burial areas. Based on ceramic types and architectural forms present, the site was likely occupied during the Santa Cruz-Civano phases of the Hohokam cultural sequence (A.D. 800–1450).

In May of 1939, human remains representing, at minimum, one individual were removed from site AZ U:9:28(PGM)/SRVSS Site 62, located within the boundaries of the Salt River Indian Reservation, AZ, by personnel

from the SRVSS working out of PGM. These excavations were permitted by the U.S. Department of the Interior. The human remains have been housed in the collections of PGM since they were excavated. They were not identified until 2018, when they were encountered during a review of the faunal collection. The individual fragmentary remains belong to an adult of indeterminate sex. No known individual was identified. No associated funerary objects are present.

Site AZ U:9:28(PGM)/SRVSS Site 62 contained house mounds, trash mounds, and possibly a ballcourt. Based on ceramic types present, the site was likely occupied during the Santa Cruz-Sacaton phases of the Hohokam cultural sequence (A.D. 800–1150).

In January of 1940, human remains representing, at minimum, one individual were removed from site AZ U:9:35(PGM)/SRVSS Site 95, located within the boundaries of the Gila River Indian Reservation, AZ, by personnel from the SRVSS working out of PGM. These excavations were permitted by the U.S. Department of the Interior. The human remains have been housed in the collections of PGM since they were excavated. They were not identified until 2021, when they were encountered during a review of the faunal collection. The fragmentary remains belong to an adult of indeterminate sex. No known individual was identified. The two associated funerary objects are one palette and one figurine.

Site AZ U:9:35(PGM)/SRVSS Site 95 contained trash mounds and cremation areas. Based on ceramic types present, the site was likely occupied during the Sweetwater-Sacaton phases of the Hohokam cultural sequence (A.D. 550–1150).

In 1963, human remains representing, at minimum, one individual were removed by a citizen from the “Snaketown area,” which most likely is site AZ U:13:1(ASM), located within the boundaries of the Gila River Indian Reservation, Maricopa County, AZ. The human remains and an associated funerary object were transferred to PGM sometime prior to 1995. The human remains have been housed in the collections of PGM since they were excavated. They were not identified until 2018, when they were encountered during a review of the faunal collection. The fragmentary remains belong to an adult of indeterminate sex. No known individual was identified. The one associated funerary object is one lot of mixed shell and lithics.

Site AZ U:13:1(ASM) was a large village containing canals, plazas, ballcourts, house groups, and a caliche-capped mound. Based on ceramic types,

architectural forms, and other material culture attributes present, the site was likely occupied during the Snaketown-Sacaton phases of the Hohokam cultural sequence (A.D. 600–1150).

The Ak-Chin Indian Community [previously listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona]; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O’odham Nation of Arizona comprise one cultural group known as the O’odham. Cultural continuity between the prehistoric Hohokam archeological culture and present-day O’odham peoples is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, and ritual practices. Oral traditions that are documented for the Ak-Chin Indian Community [previously listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona]; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O’odham Nation of Arizona support their cultural affiliation with Hohokam archeological sites in central and southern Arizona.

The Hopi Tribe of Arizona considers all of Arizona to be within traditional Hopi lands or within areas where Hopi clans migrated in the past. Oral traditions and material culture that are documented for the Hopi Tribe support their cultural affiliation with Hohokam sites in central and southern Arizona. Several Hopi clans and religious societies are derived from ancestors who migrated from the south, and likely identified with the Hohokam archeological culture.

Migration from portions of the Southwest to present-day Zuni are documented in the oral traditions of kivas, priesthoods, and medicine societies of the Zuni Tribe of the Zuni Reservation, New Mexico. These traditions support their affiliation with the central and southern Arizona Hohokam archeological culture. Historical linguistic analysis also suggests interaction between ancestral Zuni and Uto-Aztecan speakers during the late Hohokam period.

Determinations Made by the U.S. Department of the Interior, Bureau of Indian Affairs, Joined by the Pueblo Grande Museum, City of Phoenix

Officials of the U.S. Department of the Interior, Bureau of Indian Affairs, joined

by Pueblo Grande Museum, have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 16 individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(3)(A), the 29 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ak-Chin Indian Community [previously listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona]; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona, Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and the Zuni Tribe of the Zuni Reservation, New Mexico (hereafter referred to as "The Tribes").

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Lindsey Vogel-Teeter, Pueblo Grande Museum, 4619 E Washington Street, Phoenix, AZ 85034, telephone (602) 534-1572, email lindsey.vogel-teeter@phoenix.gov, by September 24, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The U.S. Department of the Interior, Bureau of Indian Affairs, assisted by the Pueblo Grande Museum, is responsible for notifying The Tribes that this notice has been published.

Dated: August 11, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021-18268 Filed 8-24-21; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0032449; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: The University of California, Berkeley, Berkeley, CA, and the United States Army Corps of Engineers, San Francisco District, San Francisco, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of California, Berkeley and the United States Army Corps of Engineers, San Francisco District have jointly completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and have determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of California, Berkeley or the United States Army Corps of Engineers, San Francisco District. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of California, Berkeley or the United States Army Corps of Engineers, San Francisco District at the address in this notice by September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas Torma, NAGPRA Liaison, Office of the Vice Chancellor for Research, 119 California Hall, Berkeley, CA 94720-1500, telephone (512) 672-5388, email t.torma@berkeley.edu and/or Kathleen Ungvarsky, M.A., RPA, United States Army Corps of Engineers, San Francisco District, 450 Golden Gate Avenue, Suite 4-201, San Francisco, CA 94103-1001, telephone (415) 503-6842,

email kathleen.ungvarsky@usace.army.mil.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University of California, Berkeley; Berkeley, CA, and the United States Army Corps of Engineers, San Francisco District, San Francisco, CA. The human remains and associated funerary objects were removed from around Humboldt Bay, Humboldt County, CA, and they are presently located at the University of California, Berkeley.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of California, Berkeley and the United States Army Corps of Engineers, San Francisco District professional staff in consultation with representatives of the Wiyot Tribe, California [previously listed as Table Bluff Reservation—Wiyot Tribe].

History and Description of the Remains

In October 1953, human remains representing, at minimum, 20 individuals were removed from CA-HUM-112 in Humboldt County, CA, by Albert B. Elsasser and James Allan Bennyhoff. The human remains had been discovered by F. Hodgkinson, the night editor for the Humboldt Times. The remains likely were exposed as a result of a United States Army Corps of Engineers, San Francisco District (USACE) project nearby, but whether they were removed from USACE-controlled property is unclear. Some museum records suggest that they were under the control of the USACE, while others suggest that they were under the jurisdiction of the Humboldt County Sheriff. Because the matter of control is unclear, this notice is being submitted jointly by the University of California, Berkeley and the United States Army Corps of Engineers, San Francisco District. As most of the human remains were sorted by skeletal element, the age and the sex of the individuals were not

recorded. No known individuals were identified.

The 136 associated funerary objects are counted and described according to individual catalog entries as follows: 59 entries described as “Beads”; 25 entries described as “Bead”; 33 entries described as “Ornament”; one entry described as “Ornament Fragment”; one entry described as “Dentalia”; one entry described as “Arrowhead Fragment”; two entries described as “Flake”; one entry described as “Sinker (Fishing)”; one entry described as “Worked Stone”; one entry described as “Flakes”; two entries described as “Bone (tools)”; one entry described as “Potsherd”; one entry described as “Ceramic Fragment”; one entry described as “Knife”; one entry described as “Hook and Eye”; one entry described as “Rod”; one entry described as “Metal Fragments”; one entry described as “Cloth Fragments”; one entry described as “Tooth (elk)”; and one entry described as “Bone and beads.” Based on the condition of the human remains, the concentration of European-American manufactured goods, and the location of the human remains, these human remains likely belong to the victims of the Indian Island Massacre, which took place on February 26, 1860.

Most of the sites around Humboldt Bay date to the creation of the Bay approximately 5000–7000 years ago. Based on archeological and Wiyot oral traditional evidence, Wiyot have occupied this area since before the creation of Humboldt Bay. Wiyot culture is represented by the Bear River Band of the Rohnerville Rancheria, the Blue Lake Rancheria, and the Wiyot Tribe.

Determinations Made by the University of California, Berkeley and the United States Army Corps of Engineers, San Francisco District

Officials of the University of California, Berkeley and the United States Army Corps of Engineers, San Francisco District have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of at least 20 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 136 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects

and the Bear River Band of the Rohnerville Rancheria, California; Blue Lake Rancheria, California; and the Wiyot Tribe, California [previously listed as Table Bluff Reservation—Wiyot Tribe].

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas Torma, NAGPRA Liaison, Office of the Vice Chancellor for Research, 119 California Hall, Berkeley, CA 94720–1500, telephone (512) 672–5388, email t.torma@berkeley.edu and/or Kathleen Ungvarsky M.A., RPA, San Francisco District Archaeologist, 450 Golden Gate Avenue, Suite 4–201, San Francisco, CA 94103, telephone (415) 503–6842, email kathleen.ungvarsky@usace.army.mil, by September 24, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Bear River Band of the Rohnerville Rancheria, California; Blue Lake Rancheria, California; and the Wiyot Tribe, California [previously listed as Table Bluff Reservation—Wiyot Tribe] may proceed.

The University of California, Berkeley and the United States Army Corps of Engineers, San Francisco District is responsible for notifying the Bear River Band of the Rohnerville Rancheria, California; Blue Lake Rancheria, California; and Wiyot Tribe, California [previously listed as Table Bluff Reservation—Wiyot Tribe] that this notice has been published.

Dated: August 11, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021–18266 Filed 8–24–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0032455; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Mississippi Department of Archives and History, Jackson, MS

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: The Mississippi Department of Archives and History has completed an inventory of human remains, in

consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Mississippi Department of Archives and History. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Mississippi Department of Archives and History at the address in this notice by September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Meg Cook, Director of Archaeology Collections, Mississippi Department of Archives and History, Museum Division, 222 North Street, P.O. Box 571, Jackson, MS 39205, telephone (601) 576–6927, email mcook@mdah.ms.gov.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Mississippi Department of Archives and History, Jackson, MS. The human remains were removed from the Coastal Pine Meadow region of Mississippi, in Hancock County, MS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of human remains was made by the Mississippi Department of Archives and History professional staff in consultation with representatives from the Alabama-Coushatta Tribe of Texas [previously listed as Alabama-Coushatta Tribes of Texas]; Alabama-Quassarte Tribal

Town; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Jena Band of Choctaw Indians; Miami Tribe of Oklahoma; Mississippi Band of Choctaw Indians; Quapaw Nation [previously listed as The Quapaw Tribe of Indians]; The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; and The Osage Nation [previously listed as Osage Tribe] (hereafter referred to as “The Tribes”).

History and Description of the Remains

On June 11, 2020, human remains representing, at minimum, one individual was removed from Hancock County, MS. The individual was discovered during maintenance dredging of the navigation channel at the mouth of Bayou Cadet, which flows into the Bay of Saint Louis. The U.S. Army Corps of Engineers, which oversaw the dredging, retained control of the human remains until May of 2021, when it transferred them to the Mississippi Department of Archives and History. No known individual was identified. No associated funerary objects are present.

The Mississippi Department of Archives and History has determined that the remains of this individual are Native American through the geographical and archeological circumstances of their discovery, as well as through the observance of biological markers that are consistent with Native American ancestry. According to the geographical and archeological evidence, the individual was removed within 500 feet of the Lakeshore Midden Site (22HA502), which dates within the Woodland Period (A.D. 1000). Evaluation of the skeletal elements by the Mississippi State Medical Examiner's office concluded that they bore biological markers consistent with Native American ancestry. The present-day Indian Tribes affiliated with the earlier group connected to these human remains include The Tribes.

Determinations Made by the Mississippi Department of Archives and History

Officials of the Mississippi Department of Archives and History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Meg Cook, Director of Archaeology Collections, Mississippi Department of Archives and History, Museum Division, 222 North Street, P.O. Box 571, Jackson, MS 39205, telephone (601) 576-6927, email mcook@mdah.ms.gov, by September 24, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Mississippi Department of Archives and History is responsible for notifying The Tribes that this notice has been published.

Dated: August 11, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021-18271 Filed 8-24-21; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0032471; PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: University of Michigan, Ann Arbor, MI

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Michigan has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of Michigan. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to

request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of Michigan at the address in this notice by September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan, Office of Research, 4080 Fleming Building, 503 Thompson Street, Ann Arbor, MI 48109-1340, telephone (734) 647-9085, email bsecunda@umich.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University of Michigan, Ann Arbor, MI. The human remains and associated funerary objects were removed from the Riverside Cemetery site (20ME1), Menominee County, MI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the University of Michigan Museum of Anthropological Archaeology (UMMAA) professional staff in consultation with representatives of the Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little Shell Tribe of Chippewa Indians of Montana; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Menominee Indian Tribe of Wisconsin; Minnesota Chippewa Tribe, Minnesota (Mille Lacs Band); Nottawaseppi Huron Band of the Potawatomi, Michigan [previously listed as Huron Potawatomi, Inc.]; and the Pokagon Band of Potawatomi Indians, Michigan and Indiana (hereafter referred to as “The Consulted Tribes”).

The Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana [previously listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana];

Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Minnesota Chippewa Tribe, Minnesota (Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; White Earth Band); Prairie Band Potawatomi Nation [previously listed as Prairie Band of Potawatomi Nation, Kansas]; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota were invited to consult but did not participate (hereafter referred to as "The Invited Tribes").

History and Description of the Remains

In 1956–57, human remains representing, at minimum, nine individuals were removed from the Riverside Cemetery site (20ME1) in Menominee County, MI, by UMMAA archeologist A.C. Spaulding. Spaulding excavated the multi-component site, and it was later excavated by others on multiple occasions (the UMMAA does not possess all of the human remains and items excavated from the Riverside Cemetery site. The human remains belong to one child 5–9 years old, of indeterminate sex; one cremated young adult 17–19 years old, of indeterminate sex; one adult male 30+ years old; one adult of indeterminate sex; one cremated infant; and four cremated adults of indeterminate sex. No known individuals were identified. The 25 associated funerary objects are one lot of small, white perforated flat beads; one lot of conical copper points; one lot of small, flat, and irregular-shaped copper fragments; one lot of faunal bone fragments and charcoal; one lot of shouldered projectile points; one lot of copper points/cones; one lot of small, heavy copper fragments; one lot of projectile point tip fragments; one lot of faunal bone fragments, bark fragments, and red ochre; one lot of large, red ochre-stained obsidian cores; one lot of copper beads and bark fragments; one lot of red ochre-stained flint scrapers and flakes; one lot of red ochre-stained rounded whetstones; one lot of copper awls; one lot of socketed copper spears; one lot of flat-stemmed or fish-tailed copper projectile points; one lot of red ochre-covered chert projectile points;

one lot of wood fragments; one lot of red ochre-covered beaver tooth fragments; one lot of red ochre-coated wood and bone fragments; one lot of red ochre- and copper-stained faunal bone fragments; one lot of dog cranium fragments with vials of red ochre; one lot of red ochre-stained and perforated lynx scapula fragments; one lot of flat-stemmed copper projectile points and wood fragments; and one lot of red ochre-stained faunal scapulae.

The Riverside Cemetery site has evidence of occupation dating from the Late Archaic (2550–300 B.C.) through the Late Woodland Period (A.D. 500–1100). Two components—Features 6 and 14—are associated with burials belonging to the Old Copper Culture of the Late Archaic/Early Woodland Period, based on diagnostic artifacts. Three different burial treatments were noted at the site: Cremations, burial in red ochre, and burial without ochre. Feature 6 contained a flexed burial with red ochre and copper points. The cranium of a dog was found near the pelvis of the individual. Ochre covered the entire skeleton, but was thicker over the head and legs, in a lens suggesting the body was wrapped in a skin or bark. A bundle was found with flints, beaver teeth, antler shaft wrench, copper points, flint points, wood, animal bone, and a smoothing stone. Feature 2, which was located near Feature 6, was identified by red ochre staining. Cremated human remains were present that were disturbed and incomplete. Above this cremation were several cord-marked pottery sherds as well as a fluted axe however the association between these objects and the burial is described as uncertain due to the distance of the objects from the human remains. Excavation Unit 4 was reported as badly disintegrated bone. The human remains were cremated and calcined. Feature 13, a disturbed pit containing calcined bones, contained no artifacts. Feature 14 contained ochre-stained sand in a pit. At the bottom of the pit was a large block of obsidian resting on strands of heavy copper beads which were wrapped in bark. Beneath the obsidian and copper beads was a pile of crushed cremated bones deposited on top of bark which lined the bottom of the pit. The bark was noted by the fibrous structures in organic material; however, it was too fragile to collect. The strands of copper beads appeared to loop back and forth upon the cremated bones. Features 11 and 12 were two pits that came together, both containing red ochre and small fragments of human bone and a conical copper point.

The human remains have been determined to be Native American

based on dental traits, mortuary treatment, diagnostic artifacts, and archeological context. A relationship of shared group identity can be reasonably traced between the Native American human remains from this site and the Menominee Indian Tribe of Wisconsin. Menominee tribal experts provided evidence for cultural affiliation based on their long-standing presence in the Menominee River Valley, which they believe establishes ties of territorial ethnicity to these burials. Museum experts believe the burials are associated with Old Copper Culture which geographically includes, but reaches beyond, the Menominee River Valley. However, tribal experts also provided information that suggests there were regional variations within Old Copper Culture, and this pattern points toward an association between these particular burials and the Menominee traditional homelands. After considering the best available information, and in light of the preponderance of the evidence threshold required under the law and regulations, the determination was made that the totality of the various lines of evidence suggest the Menominee are culturally affiliated with these particular burials.

Determinations Made by the University of Michigan

Officials of the University of Michigan have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of nine individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 25 objects described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Menominee Indian Tribe of Wisconsin.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Ben Secunda, NAGPRA Project Manager, University of Michigan, Office of Research, 4080 Fleming Building, 503 Thompson

Street, Ann Arbor, MI 48109-1340, telephone (734) 647-9085, email bsecunda@umich.edu, by September 24, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Menominee Indian Tribe of Wisconsin may proceed.

The University of Michigan is responsible for notifying The Consulted Tribes and The Invited Tribes that this notice has been published.

Dated: August 18, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021-18273 Filed 8-24-21; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-NERO-CHHO-32133; PPNCCHOHS0-PPMPSPD1Z.YM0000]

Chesapeake and Ohio Canal National Historical Park Commission Request for Nominations

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service, U.S. Department of the Interior, is requesting nominations for qualified persons to serve as members of the Chesapeake and Ohio Canal National Historical Park Commission (Commission).

DATES: Written nominations must be received by October 25, 2021.

ADDRESSES: Send nominations to: Mackensie Henn, Assistant to the Superintendent, Chesapeake and Ohio Canal National Historical Park, 142 W Potomac Street, Williamsport, Maryland 21795, or by email choh_information@nps.gov.

FOR FURTHER INFORMATION CONTACT: Mackensie Henn, by email choh_information@nps.gov or telephone at (240) 520-3135.

SUPPLEMENTARY INFORMATION: The Commission was established by section 6 of the Chesapeake and Ohio Canal Development Act (16 U.S.C. 410y-4) and terminated January 8, 2011. The Commission has been extended by Public Law 113-178 and the new termination date is September 26, 2024. The purpose of the Commission is to meet and consult with the Secretary of the Interior (Secretary), or the Secretary's designee, on general policies and specific matters related to the administration and development of the

Chesapeake and Ohio Canal National Historical Park.

The Commission shall be composed of 19 members appointed by the Secretary for 5-year terms as follows: (1) Eight members to be appointed from recommendations submitted by the boards of commissioners or the county councils, as the case may be, of Montgomery, Frederick, Washington, and Allegany Counties, Maryland, of which two members shall be appointed from recommendations submitted by each such board or council, as the case may be; (2) Eight members to be appointed from recommendations submitted by the Governor of the State of Maryland, the Governor of the State of West Virginia, the Governor of the Commonwealth of Virginia, and the Mayor of the District of Columbia, of which two members shall be appointed from recommendations submitted by each such Governor or Mayor, as the case may be; and (3) Three members to be appointed by the Secretary, one of whom shall be designated Chairman of the Commission and two of who shall be members of regularly constituted conservation organizations.

We are currently seeking members to represent all categories.

Some members may be appointed as special Government employees (SGEs). Please be aware that members selected to serve as SGEs will be required, prior to appointment, to file a Confidential Financial Disclosure Report in order to avoid involvement in real or apparent conflicts of interest. You may find a copy of the Confidential Financial Disclosure Report at the following website: <https://www.doi.gov/ethics/special-government-employees/financial-disclosure>. Additionally, after appointment, members appointed as SGEs will be required to meet applicable financial disclosure and ethics training requirements. Please contact (202) 208-7960 or DOI_Ethics@sol.doi.gov with any questions about the ethics requirements for members appointed as SGEs.

Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department to contact a potential member. All documentation, including letters of recommendation, must be compiled and submitted in one complete package. All those interested in membership, including current members whose terms are expiring, must follow the same nomination

process. Members may not appoint deputies or alternates.

Members of the Commission serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the NPS, members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under section 5703 of title 5 of the United States Code.

(Authority: 5 U.S.C. Appendix 2)

Alma Rippis,

Chief, Office of Policy.

[FR Doc. 2021-18328 Filed 8-24-21; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-NERO-CEBE-32331; PPNECEBE00, PPMPSPD1Z.Y00000]

Request for Nominations for the Cedar Creek and Belle Grove National Historical Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Request for nominations.

SUMMARY: The National Park Service (NPS), U.S. Department of the Interior, is requesting nominations for qualified persons to serve as members on the Cedar Creek and Belle Grove National Historical Park Advisory Commission (Commission).

DATES: Written nominations must be received by September 24, 2021.

ADDRESSES: Nominations or requests for further information should be sent to Karen Beck-Herzog, Site Manager, Cedar Creek and Belle Grove National Historical Park, P.O. Box 700, Middletown, Virginia 22645, or via email karen_beck-herzog@nps.gov.

FOR FURTHER INFORMATION CONTACT: Karen Beck-Herzog, via telephone (540) 868-0938.

SUPPLEMENTARY INFORMATION: The Cedar Creek and Belle Grove National Historical Park Advisory Commission was established in accordance with the Cedar Creek and Belle Grove National Historical Park Act of 2002 (16 U.S.C. 410iii-7). The Commission was designated by Congress to provide advice to the Secretary of the Interior on the preparation and implementation of the park's general management plan and in the identification of sites of significance outside the park boundary.

The Commission consists of 15 members appointed by the Secretary, as follows:

(a) 1 Representative from the Commonwealth of Virginia; (b) 1 representative each from the local governments of Strasburg, Middletown, Frederick County, Shenandoah County, and Warren County; (c) 2 representatives of private landowners within the Park; (d) 1 representative from a citizen interest group; (e) 1 representative from the Cedar Creek Battlefield Foundation; (f) 1 representative from the Belle Grove, Incorporated; (g) 1 representative from the National Trust for Historic Preservation; (h) 1 representative from the Shenandoah Valley Battlefields Foundation; (i) 1 ex-officio representative from the National Park Service; and (j) 1 ex-officio representative from the United States Forest Service.

We are currently seeking members to represent all categories.

Each member shall be appointed for a term of three years and may be reappointed for not more than two successive terms. A member may serve after the expiration of that member's term until a successor has been appointed. The Chairperson of the Commission shall be elected by the members to serve a term of one-year renewable for one additional year.

Nominations should be typed and should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Commission and permit the Department to contact a potential member.

Members of the Commission serve without compensation. However, while away from their homes or regular places of business in the performance of services for the Commission as approved by the NPS, members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed such expenses under Section 5703 of title 5 of the United States Code.

Authority: 5 U.S.C. Appendix 2.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2021-18327 Filed 8-24-21; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0032452;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Gilcrease Museum, Tulsa, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Gilcrease Museum, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of objects of cultural patrimony. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Gilcrease Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Gilcrease Museum at the address in this notice by September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Laura Bryant, Gilcrease Museum, 1400 N Gilcrease Museum Road, Tulsa, OK 74127, telephone (918) 596-2747, email laura-bryant@utulsa.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Gilcrease Museum, Tulsa, OK, that meet the definition of objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

At an unknown date, two cultural items were separated from a Pawnee

community. These items were likely purchased from a collector by Thomas Gilcrease sometime during the mid-20th century. In 1955 and 1962, Gilcrease transferred these items along with the rest of his collection to the City of Tulsa, which owns the Gilcrease Museum. The two objects of cultural patrimony are bear claw and otter fur necklaces (accession numbers 84.2159 and 84.812) of 19th century-circa 1900 date.

In 1971, one cultural item was separated from its Pawnee family caretaker, who likely resided in Oklahoma. The item was given by Brummett Echohawk to the Gilcrease Museum. The one object of cultural patrimony is a medicine bundle (accession number 84.1755) made in Nebraska and dating to circa 1850.

At an unknown date, one cultural item was separated from its Pawnee caretaker—a family headed by Jim Little Sun—whose place of residence is unknown. The item was likely purchased from a collector by Thomas Gilcrease sometime during the mid-20th century. In 1955 or 1962, Gilcrease transferred this item to the City of Tulsa, which owns the Gilcrease Museum. The one object of cultural patrimony is a medicine kit (accession number 84.2295a-m) dating to circa 1900.

In the 1960s or early 1970s, two cultural items were separated from a Pawnee community likely located in Oklahoma. They were purchased from a pawn shop in Ralston, Oklahoma by Ben Stone, a schoolteacher from Claremore, Oklahoma. In the early 1970s, Stone donated these items to the Gilcrease Museum. The two objects of cultural patrimony are Hako bundles.

Documentation and records at the museum identify all the above listed items as Pawnee. Through consultation, these were determined to be culturally affiliated with the Pawnee Nation of Oklahoma and were identified as objects of cultural patrimony.

Determinations Made by the Gilcrease Museum

Officials of the Gilcrease Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(D), the six cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the objects of cultural patrimony and the Pawnee Nation of Oklahoma.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Laura Bryant, Gilcrease Museum, 1400 N Gilcrease Museum Road, Tulsa, OK 74127, telephone (918) 596-2747, email laura-bryant@utulsa.edu, by September 24, 2021. After that date, if no additional claimants have come forward, transfer of control of the objects of cultural patrimony to the Pawnee Nation of Oklahoma may proceed.

The Gilcrease Museum is responsible for notifying the Pawnee Nation of Oklahoma that this notice has been published.

Dated: August 11, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021-18269 Filed 8-24-21; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0032457;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: The State Museum of Pennsylvania, Harrisburg, PA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The State Museum of Pennsylvania, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to The State Museum of Pennsylvania. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to The State Museum of Pennsylvania at

the address in this notice by September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Kurt W. Carr, The State Museum of Pennsylvania, 300 North Street, Harrisburg, PA 17120-0024, telephone (717) 783-9926, email kcarr@pa.gov.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of The State Museum of Pennsylvania, Harrisburg, PA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In October of 1935, 21 cultural items were removed from the Northbrook Cemetery (36CH0061) in Chester County, PA. These items were received by The State Museum of Pennsylvania as part of the Charles and Theodore Dutt collection in 1982. The Dutt brothers collected artifacts on the surface of the ground in the Brandywine, Chester Creek, and Ridley Creek drainages. They reported finding the Northbrook Cemetery site because of a ground hog disturbance which yielded pieces of copper, a glass bead, and bone fragments. An account of the recovery is reported in C. A. Weslager, *Red Men on the Brandywine*, pp. 134-136 (1953). On October 19, 1935, the Dutt brothers returned to the site with the landowner, Mr. Peterson, to further investigate the area. A burial was discovered along with additional beads, broken copper rings and nails. The skeletal remains are not present in the collections of The State Museum of Pennsylvania, and there is no information showing that they were ever removed from the burial. The 21 unassociated funerary objects are 13 white glass beads, three iron nails, one copper wire dangle wrapped around hair (no determination if animal or human), and four fragments of copper rings.

Archeological and archival evidence suggest that the materials were associated with historic Delaware (Lenape) burials. Historic documents indicate that in 1731, James Logan

provided an area along either side of the Brandywine Creek to be retained by Indians occupying this region. The Delaware entered into numerous agreements with the Commonwealth's colonial government and are recognized as the primary tribal group for this region.

In 1978, 135 cultural items were removed from the Montgomery site (36CH0060), Chester County, PA, by Marshall Becker of West Chester University with the permission of the landowner. The Montgomery site is a Historic period site (A.D. 1700-1733). The collection was the product of a joint research project conducted by West Chester University and The State Museum of Pennsylvania in Wallace Township, Chester County, PA. Archeological and archival evidence suggest that these 135 objects are associated with the Delaware Tribes. The 135 unassociated funerary objects are 131 fragments of organic fiber, one iron nail fragment, and three unmodified quartzite lithic fragments. Oral tradition, ethnohistorical, and archeological evidence place a "Brandywine band" of the Lenape (Delaware) at the site ca. A.D. 1730.

Settlements documented in Chester County, include Okehocking, Queonemysing, and four others whose Delaware names are not known. Colonial documents identify these settlements as being variously occupied from the 1690s to the 1730s, when William Penn was beginning to establish Pennsylvania.

Determinations Made by The State Museum of Pennsylvania

Officials of The State Museum of Pennsylvania have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 156 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin (hereafter referred to as "The Tribes").

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice

that wish to claim these cultural items should submit a written request with information in support of the claim to Dr. Kurt W. Carr, Senior Curator, Archaeology, The State Museum of Pennsylvania, 300 North Street, Harrisburg, PA 17120-0024, telephone (717) 783-9926, email kcarr@pa.gov, by September 24, 2021. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to The Tribes may proceed.

The State Museum of Pennsylvania is responsible for notifying The Tribes that this notice has been published.

Dated: August 11, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021-18272 Filed 8-24-21; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0032450;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, Bureau of Indian Affairs (BIA), assisted by the University of Montana, has completed an inventory of human remains in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice who wish to request transfer of control of these human remains should submit a written request to the BIA through the University of Montana. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice who wish to request transfer of control of these human remains should submit a written request with information in support of the request to the BIA through the University of Montana at the address in this notice by September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Kelly Dixon, University of Montana, Missoula, MT 59812, telephone (406) 243-2693, email kelly.dixon@mso.umt.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC and in the physical custody of the University of Montana, Missoula, MT. The human remains were removed from the Blackfeet Reservation, Glacier County, MT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made on behalf of the BIA by the University of Montana professional staff in consultation with representatives of the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana.

History and Description of the Remains

On or before 1985, human remains representing, at minimum, one individual were removed from Glacier County, MT. In 1985, an adult female cranium was received by the University of Montana from the Montana Division of Forensic Sciences. The cranium (UMAF #38) was heavily weathered, suggesting it had lain on the ground surface for an extended period. The Montana Division of Forensic Sciences (MDFS) could find no additional information about the specific location of the removal of the human remains or the circumstances of MDFS's acquisition and transfer of the human remains to the University of Montana. No known individual was identified. No associated funerary objects are present.

Glacier County is a sparsely populated region that lies within the Blackfeet Reservation. Historic human remains found in this area most likely are culturally affiliated with the Blackfeet Tribe.

Determinations Made by the U.S. Department of the Interior, Bureau of Indian Affairs and University of Montana

Officials of the U.S. Department of the Interior, Bureau of Indian Affairs and University of Montana have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice who wish to request transfer of control of these human remains should submit a written request with information in support of the request to Dr. Kelly Dixon, University of Montana, Missoula, MT 59812, telephone (406) 243-2693, email kelly.dixon@mso.umt.edu, by September 24, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana may proceed.

The U.S. Department of the Interior, Bureau of Indian Affairs, assisted by the University of Montana, is responsible for notifying the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana that this notice has been published.

Dated: August 11, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021-18267 Filed 8-24-21; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0032453;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Gilcrease Museum, Tulsa, OK

AGENCY: National Park Service, Interior.
ACTION: Notice.

SUMMARY: The Gilcrease Museum, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects and

objects of cultural patrimony. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Gilcrease Museum. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Gilcrease Museum at the address in this notice by September 24, 2021.

FOR FURTHER INFORMATION CONTACT: Laura Bryant, Gilcrease Museum, 1400 N Gilcrease Museum Road, Tulsa, OK 74127, telephone (918) 596-2747, email laura-bryant@utulsa.edu.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Gilcrease Museum, Tulsa, OK, that meet the definition of sacred objects and objects of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In the late 19th or early 20th century, 18 cultural items were removed from Mille Lacs Band of Ojibwe communities. Thomas Gilcrease likely acquired these items as part of a larger collection in the mid-1900s, though the exact details are unknown. Thomas Gilcrease transferred his collection to the City of Tulsa in 1955. The one object of cultural patrimony is a birch bark basket (accession number 71.454). The 17 sacred objects and objects of cultural patrimony are one loom beaded sash (84.1868), one sweet grass basket (71.226), and 15 bandolier bags (84.1721, 84.1729a-b, 84.1707, 84.1719a-b, 84.1720a-b, 84.1715a-b, 84.1708, 84.1717, 84.1711, 84.1714a-b,

84.1724a-b, 84.1706a-b, 84.1716a-b, 84.1710, and 84.1727a-b).

All these items are identified as Ojibwe in the Gilcrease Museum's records, and their cultural affiliation was confirmed during consultations with the Bois Forte Band (Nett Lake) and the Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota. The birch bark basket is a communally owned ceremonial object that could not be separated by an individual from the community. The beaded sash and basket are communally owned, are still used in ceremonies today, and have on-going historical, traditional, and cultural importance to the Ojibwe. Likewise, bandolier bags are owned by the community, are still used in traditional ceremonies today, and have on-going historical, traditional, and cultural importance to the Ojibwe.

Circa 1905, two cultural items were removed from a Mille Lacs Band of Ojibwe community in the Minneapolis, MN, by Mervin T. Miller. His son, Gordon Miller, inherited his father's collection and donated it to the Gilcrease Museum in 1972. The two sacred objects and objects of cultural patrimony are one pair of moccasins (84.2186a-b) and one beaded bag (84.2188).

Both items are identified as Ojibwe in the Gilcrease's records. As they were collected from Minneapolis, more likely than not, they are affiliated with the Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota. During consultation, the moccasins and beaded bag were determined to be communally owned, can be used in a traditional ceremony or dance today, and have on-going historical, traditional, or cultural importance to the Ojibwe.

Circa 1900, one cultural item was removed from an Ojibwe community. Emil Lenders, a painter and collector, traveled throughout the Plains around the turn of the century, at which time he acquired the item. In 1950, Thomas Gilcrease purchased Lenders' collection, including this item. Gilcrease transferred his collection to the City of Tulsa in 1955. The one sacred object and object of cultural patrimony is a pair of beaded cuffs (84.1847a-b).

These beaded cuffs are identified as possibly Chippewa (Ojibwe) in the Gilcrease's records, and their Ojibwe affiliation was confirmed during consultation. Beaded garters are communally owned, are still used in a traditional ceremony today, and have on-going historical, traditional, or cultural importance to the Ojibwe.

On an unknown date, one cultural item was removed from a Mille Lacs Band of Ojibwe community. It was

purchased in a Warehouse Auction by John and Ruthene Alexander, who donated by them to the Gilcrease Museum in 2006. The one sacred object and object of cultural patrimony is a beaded bandolier bag (84.3295).

This bandolier bag is identified as Ojibwe in the Gilcrease's records, and their Ojibwe affiliation was confirmed during consultation. Bandolier bags are communally owned, are still used in traditional ceremonies today, and have on-going historical, traditional, or cultural importance to the Ojibwe.

In the early 1900s, one cultural item was removed from a Mille Lacs Band of Ojibwe community by Frank Engles, a collector. In 1950, Thomas Gilcrease purchased Frank Engles' collection, including this item. Gilcrease transferred his collection to the City of Tulsa in 1955. The one object of cultural patrimony is a war club with an attached scalp lock (73.247).

Frank Engles made a note that read, "The scalp is affiliated with the Ojebway [sic] tribe; however, the club belongs to the Chippeway [sic] of Minninsota [sic]." Through consultation with Minnesota Ojibwe tribes, this item has been affiliated with the Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota. The war club is communally owned and has on-going historical, traditional, and cultural importance to the Ojibwe.

Determinations Made by the Gilcrease Museum

Officials of the Gilcrease Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(C), 21 of the 23 cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.

- Pursuant to 25 U.S.C. 3001(3)(D), all 23 cultural items described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and objects of cultural patrimony and the Minnesota Chippewa Tribe, Minnesota (Mille Lacs Band).

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with

information in support of the claim to Laura Bryant, Gilcrease Museum, 1400 N Gilcrease Museum Road, Tulsa, OK 74127, telephone (918) 596-2747, email laura-bryant@utulsa.edu, by September 24, 2021. After that date, if no additional claimants have come forward, transfer of control of the sacred objects and/or objects of cultural patrimony to the Minnesota Chippewa Tribe, Minnesota (Mille Lacs Band) may proceed.

The Gilcrease Museum is responsible for notifying the Minnesota Chippewa Tribe, Minnesota (Mille Lacs Band) that this notice has been published.

Dated: August 11, 2021.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021-18270 Filed 8-24-21; 8:45 am]

BILLING CODE 4312-52-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1167]

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: Correction of notice.

SUMMARY: Correction is made to notice 86 FR 46882, which was published on August 20, 2021. There is a typographical error in the investigation number on the first page caption section. The correct investigation number should read: Investigation No. 337-TA-1167.

By order of the Commission.

Issued: August 20, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021-18313 Filed 8-24-21; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Dynamic Spectrum Alliance, Inc.

Notice is hereby given that, on August 10, 2021, pursuant to Section 6(a) of the

National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Dynamic Spectrum Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Apple, Cupertino, CA, and Strathmore University, Nairobi, KENYA have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Dynamic Spectrum Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On September 1, 2020, Dynamic Spectrum Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 18, 2020 (85 FR 58390).

The last notification was filed with the Department on May 4, 2021. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on May 25, 2021 (86 FR 28150).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2021-18264 Filed 8-24-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-872]

Bulk Manufacturer of Controlled Substances Application: Benuvia Therapeutics Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Benuvia Therapeutics Inc., has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on

or before October 25, 2021. Such persons may also file a written request for a hearing on the application on or before October 25, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on July 1, 2021, Benuvia Therapeutics Inc., 2700 Oakmont Drive, Round Rock, Texas 78665, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana	7360	I
Tetrahydrocannabinols	7370	I

The company plans to bulk manufacture the listed controlled substances for the internal use intermediates or for sale to its customers. The company plans to manufacture the above-listed controlled substances in bulk to produce finished dosage forms and conduct research to develop new drug products and for clinical studies. In reference to drug codes 7360 (Marihuana), and 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021-18234 Filed 8-24-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-864]

Importer of Controlled Substances Application: Cedarburg Pharmaceuticals

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Cedarburg Pharmaceuticals has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written

comments on or objections to the issuance of the proposed registration on or before September 24, 2021. Such persons may also file a written request for a hearing on the application on or before September 24, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on January 20, 2021, Cedarburg Pharmaceuticals, 870 Badger Circle Drive, Grafton, Wisconsin 53024-9436, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid	2010	I
Marihuana Extract	7350	I
Marihuana	7360	I

The company plans to import Sodium Oxybate (derivative of Gamma-Hydroxybutyric Acid) to support Euticals Inc. post procurement quota grand. The cannabidiol from Marihuana and Marihuana Extracts is intended for analytical purposes with tetramethylpyrazine. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021-18233 Filed 8-24-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-890]

Importer of Controlled Substances Application: Johnson Matthey Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Johnson Matthey Inc., has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before September 24, 2021. Such persons may also file a written request for a hearing on the application on or before September 24, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrisette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrisette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on July 23, 2021, Johnson Matthey Inc., 2003 Nolte Drive, West Deptford, New Jersey 08066-1742, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Nabilone	7379	II

The company plans to import Nabilone (7379) in order to accept the return of this controlled substance from a foreign customer who no longer has a demand for this substance. No other

activity for this drug code is authorized for this registration.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021-18238 Filed 8-24-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA-860]

Bulk Manufacturer of Controlled Substances Application: Absolute Standards, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Absolute Standards, Inc., has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before October 25, 2021. Such persons may also file a written request for a hearing on the application on or before October 25, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrisette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on May 31, 2021, Absolute Standards, Inc., 44 Rossotto Drive, Hamden, Connecticut 06514-1335, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance:

Controlled substance	Drug code	Schedule
Pentobarbital	2270	II

The company plans to bulk manufacture the listed controlled substances for internal use and for sale to its customers. No other activities for these drug codes are authorized for this registration.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021-18230 Filed 8-24-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1117-0034]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; Revision of a Previously Approved Collection; The National Forensic Laboratory Information System Collection of Analysis Data**AGENCY:** Drug Enforcement Administration, Department of Justice.**ACTION:** 60-Day notice.**SUMMARY:** The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1995.**DATES:** Comments are encouraged and will be accepted for 60 days until October 25, 2021.**FOR FURTHER INFORMATION CONTACT:** If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Scott A. Brinks, Diversion Control Division, Drug Enforcement Administration; Mailing Address: 8701 Morrisette Drive, Springfield, Virginia 22152; Telephone: (571) 362-3261.**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection1. *Type of Information Collection:* Revision of a currently approved collection.2. *Title of the Form/Collection:* The National Forensic Laboratory Information System Collection of Analysis Data.3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There are no form numbers for the collection. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.4. *Affected public who will be asked or required to respond, as well as a brief abstract:**Affected public (Primary):* Forensic Science Laboratory Management.*Affected public (Other):* None.*Abstract:* This collection provides the Drug Enforcement Administration (DEA) with a national database on analyzed drug evidence from non-federal laboratories. Information from this database is combined with the other existing databases to develop more accurate, up-to-date information on abused drugs. This database represents a voluntary, cooperative effort on the part of participating laboratories to provide a centralized source of analyzed drug data.5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The DEA estimates that 2,640 persons annually for this collection at 2.2015 hour per respondent, for an annual burden of 5,812 hours.6. *An estimate of the total public burden (in hours) associated with the proposed collection:* The DEA estimates this collection takes 5,812 annual burden hours.

If additional information is required, please contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: August 20, 2021.

Melody Braswell,*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2021-18276 Filed 8-24-21; 8:45 am]

BILLING CODE 4410-09-P**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[Notice (21-055)]

Aerospace Safety Advisory Panel; Meeting.**AGENCY:** National Aeronautics and Space Administration (NASA).**ACTION:** Notice of meeting.**SUMMARY:** In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration announces a forthcoming meeting of the Aerospace Safety Advisory Panel (ASAP).**DATES:** Thursday, September 23, 2021, 2:00 p.m. to 3:30 p.m., Eastern Time.**ADDRESSES:** This will be a virtual meeting via teleconference.**FOR FURTHER INFORMATION CONTACT:** Ms. Lisa M. Hackley, ASAP Administrative Officer, NASA Headquarters, Washington, DC 20546, (202) 358-1947 or lisa.m.hackley@nasa.gov.**SUPPLEMENTARY INFORMATION:** The Aerospace Safety Advisory Panel (ASAP) will hold its Fourth Quarterly Meeting for 2021. This discussion is pursuant to carrying out its statutory duties for which the Panel reviews, identifies, evaluates, and advises on those program activities, systems, procedures, and management activities that can contribute to program risk. Priority is given to those programs that involve the safety of human flight. The agenda will include:

- Updates on the International Space Station Program
- Updates on the Commercial Crew Program
- Updates on Exploration System Development Program
- Updates on Human Lunar Exploration Program
- NASA's Human Flight Evolution

This meeting is a virtual meeting, and only available telephonically. Any interested person may call the USA toll free conference call number 888-566-6133; passcode 8343253 and then the # sign. At the beginning of the meeting, members of the public may make a verbal presentation to the Panel on the subject of safety in NASA, not to exceed 5 minutes in length. To do so, members of the public must contact Ms. Lisa M. Hackley at lisa.m.hackley@nasa.gov or at (202) 358-1947 at least 48 hours in advance. Any member of the public is permitted to file a written statement with the Panel via electronic submission to Ms. Hackley at the email address previously noted. Verbal presentations and written statements should be

limited to the subject of safety in NASA. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

*Advisory Committee Management Officer,
National Aeronautics and Space
Administration.*

[FR Doc. 2021-18299 Filed 8-24-21; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2021-043]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records
Administration (NARA).

ACTION: Notice.

SUMMARY: We have submitted a request to the Office of Management and Budget (OMB) for approval to continue to collect information from people and organizations that request to use NARA's official seals or logos. We invite you to comment on this proposed information collection.

DATES: OMB must receive written comments at the address below on or before September 24, 2021.

ADDRESSES: Send any comments and recommendations on the proposed information collection in writing to www.reginfo.gov/public/do/PRAMain. You can 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: Tamee Fechhelm, Paperwork Reduction Act Officer, by email at tamee.fechhelm@nara.gov or by telephone at 301.837.1694 with any requests for additional information.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13), we invite the general public and other Federal agencies to comment on proposed information collections. We published a notice of proposed collection for this information collection on June 11, 2021 (86 FR 31345); and we received no comments. We have therefore submitted the described information collection to OMB for approval.

If you have comments or suggestions, they should address one or more of the

following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether this collection affects small businesses.

In this notice, we solicit comments concerning the following information collection:

Title: Use of NARA Official Seals and/or Logos.

OMB number: 3095-0052.

Agency form number: N/A.

Type of review: Regular.

Affected public: Business or other for-profit, Not-for-profit institutions, Federal government.

Estimated number of respondents: 37.

Estimated time per response: 15 minutes.

Frequency of response: On occasion.

Estimated total annual burden hours: 9 hours.

Abstract: The authority for this information collection is contained in 36 CFR 1200.8. NARA's three official seals are the National Archives and Records Administration seal; the National Archives seal; and the National Archives Trust Fund Board seal. The official seals are used to authenticate various copies of official records in our custody and for other official NARA business. We also have an official NARA logo, and other official program and office logos (such as the **Federal Register** logo, Presidential library logos, Controlled Unclassified Information logo, National Historical Publications and Records Center logo, and more). Occasionally, when criteria are met, we will permit the public or other Federal agencies to use our official seals and logos. The requestor must submit a written request, that includes certain information outlined in 36 CFR 1200, to use the official seals and logos. We approve or deny the request using specific criteria, also outlined in the regulation.

Swarnali Halder,

Executive for Information Services/CIO.

[FR Doc. 2021-18308 Filed 8-24-21; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Arts Advisory Panel Meetings

AGENCY: National Endowment for the Arts.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given that 2 meetings of the Arts Advisory Panel to the National Council on the Arts will be held by teleconference or videoconference.

DATES: See the **SUPPLEMENTARY INFORMATION** section for individual meeting times and dates. All meetings are Eastern time and ending times are approximate.

ADDRESSES: National Endowment for the Arts, Constitution Center, 400 7th St. SW, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT:

Further information with reference to these meetings can be obtained from Ms. Sherry Hale, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506; hales@arts.gov, or call 202/682-5696.

SUPPLEMENTARY INFORMATION: The closed portions of meetings are for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of September 10, 2019, these sessions will be closed to the public pursuant to subsection (c)(6) of section 552b of title 5, United States Code.

The upcoming meetings are:

National Heritage Awards Program (review of applications): This meeting will be closed. *Date and time:* September 10, 2021, 1:00 p.m. to 3:00 p.m.

Literature Fellowships (review of applications): This meeting will be closed. *Date and time:* September 27, 2021, 11:00 a.m. to 1:00 p.m.

Dated: August 20, 2021.

Sherry P. Hale,

Staff Assistant, National Endowment for the Arts.

[FR Doc. 2021-18292 Filed 8-24-21; 8:45 am]

BILLING CODE 7537-01-P

NATIONAL SCIENCE FOUNDATION**Advisory Committee for Cyberinfrastructure; Notice of Meeting**

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Cyberinfrastructure (25150) (Virtual).

Date and Time: September 23, 2021; 10:00 a.m.–5:00 p.m. September 24, 2021; 10:00 a.m.–5:00 p.m.

Place: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314 | Virtual.

This meeting will be held virtually. The final meeting agenda and instructions to register will be posted on the ACCI website: <https://www.nsf.gov/cise/oac/advisory.jsp>.

Type of Meeting: Open.

Contact Person: Amy Walton, CISE, Office of Advanced Cyberinfrastructure, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: 703–292–8970.

Minutes: May be obtained from the contact person listed above and will be posted within 90-days after the meeting end date to the ACCI website: <https://www.nsf.gov/cise/oac/advisory.jsp>.

Purpose of Meeting: To advise NSF on the impact of its policies, programs and activities in the OAC community. To provide advice to the Director/NSF on issues related to long-range planning.

Agenda: Updates on NSF wide OAC activities.

Dated: August 20, 2021.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2021–18265 Filed 8–24–21; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339; NRC–2020–0234]

Virginia Electric and Power Company; Dominion Energy Virginia; North Anna Power Station, Unit Nos. 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft supplemental environmental impact statement; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft plant-specific Supplement 7, Second Renewal, to the

Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants, NUREG–1437, regarding the subsequent renewal of Facility Operating License Nos. NPF–4 and NPF–7 for an additional 20 years of operation for North Anna Power Station, Unit Nos. 1 and 2 (North Anna). The North Anna facility is located in Louisa County, Virginia. Possible alternatives to the proposed action (subsequent license renewal) include no action and reasonable replacement power alternatives.

DATES: The staff will hold a webinar on the draft Environmental Impact Statement in September, including a presentation on the preliminary findings and a transcribed public comment session. The webinar details will be announced in the near future. Submit either electronic or written comments by October 12, 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.

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–2020–0234. 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 individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *Email:* Comments may be submitted to the NRC electronically using the email address NorthAnnaEnvironmental@nrc.gov.

- *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: Tam Tran, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3617; email: Tam.Tran@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments**A. Obtaining Information**

Please refer to Docket ID NRC–2020–0234 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov/> and search for Docket ID NRC–2020–0234.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may access 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 by email to pdr.resource@nrc.gov. Draft plant-specific Supplement 7, Second Renewal, to the GEIS for License Renewal of Nuclear Plants, NUREG–1437, is available in ADAMS under Accession No. ML21228A084.

- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request for copies of documents 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.

- *Library:* A copy of draft plant-specific Supplement 7, Second Renewal, to the GEIS for License Renewal of Nuclear Plants, NUREG–1437, is available at the following location: Louisa Library, 881 Davis Hwy., Mineral, VA 23117.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (<https://www.regulations.gov/>). Please include Docket ID NRC–2020–0234 in the subject line of 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, you should

inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Discussion

The NRC is issuing for public comment draft plant-specific Supplement 7, Second Renewal, to the GEIS for License Renewal of Nuclear Plants, NUREG-1437, regarding the subsequent renewal of Facility Operating License Nos. NPF-4 and NPF-7 for an additional 20 years of operation for North Anna, Unit Nos. 1 and 2. Draft plant-specific Supplement 7, Second Renewal, to the GEIS includes the preliminary analysis that evaluates the environmental impacts of the proposed action and alternatives to the proposed action. The NRC staff's preliminary recommendation is that the adverse environmental impacts of subsequent license renewal for North Anna are not so great that preserving the option of subsequent license renewal for energy-planning decisionmakers would be unreasonable.

Dated: August 19, 2021.

For the Nuclear Regulatory Commission.

Robert B. Elliott,

Chief, Environmental Review License Renewal Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021-18255 Filed 8-24-21; 8:45 am]

BILLING CODE 7590-01-P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* August 25, 2021.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202-268-8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 10,

2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 719 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2021-125, CP2021-129.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021-18316 Filed 8-24-21; 8:45 am]

BILLING CODE 7710-12-P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* August 25, 2021.

FOR FURTHER INFORMATION CONTACT:

Sean Robinson, 202-268-8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 13, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 720 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2021-126, CP2021-130.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021-18311 Filed 8-24-21; 8:45 am]

BILLING CODE 7710-12-P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* August 25, 2021.

FOR FURTHER INFORMATION CONTACT:

Sean Robinson, 202-268-8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby

gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 9, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 718 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2021-123, CP2021-125.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021-18315 Filed 8-24-21; 8:45 am]

BILLING CODE 7710-12-P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* August 25, 2021.

FOR FURTHER INFORMATION CONTACT:

Sean Robinson, 202-268-8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 18, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add First-Class Package Service Contract 116 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2021-128, CP2021-133.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021-18318 Filed 8-24-21; 8:45 am]

BILLING CODE 7710-12-P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* August 25, 2021.

FOR FURTHER INFORMATION CONTACT:

Sean Robinson, 202-268-8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 9, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 90 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2021–124, CP2021–126.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–18314 Filed 8–24–21; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* August 25, 2021.

FOR FURTHER INFORMATION CONTACT:

Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 9, 2021, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, First-Class Package Service, and Parcel Select Service Contract 9 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2021–122, CP2021–124.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2021–18312 Filed 8–24–21; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92710; File No. SR–FINRA–2021–011]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Approving a Proposed Rule Change To Amend FINRA Rule 1011(p) (“Specified Risk Event”)

August 19, 2021.

I. Introduction

On May 12, 2021, the Financial Industry Regulatory Authority, Inc. (“FINRA”) filed with the Securities and Exchange Commission (“SEC” or “Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act” or “Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to amend FINRA Rule 1011(p) (which defines the term “specified risk event”) to clarify the scope of “final regulatory actions” that are included in the definition of “specified risk event” for purposes of the Rule 1000 Series (Member Application and Associated Person Registration).³

The proposed rule change was published for comment in the **Federal Register** on May 26, 2021.⁴ The public comment period closed on June 16, 2021. The Commission received one comment letter in response to the Notice.⁵ On July 9, 2021, FINRA consented to an extension of the time period in which the Commission must approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to August 24, 2021.⁶ This order approves the proposed rule change.

II. Description of the Proposed Rule Change

On December 10, 2020, the Commission approved a proposed rule

change concerning brokers with a significant history of misconduct (“Misconduct Rule”).⁷ Among other things, the Misconduct Rule amended the FINRA Rule 1000 Series (Member Application and Associated Person Registration) to require a FINRA member broker-dealer (“member firm”) to seek a materiality consultation and approval of a continuing membership application, if required, when a natural person seeking to become an owner, control person, principal, or registered person of the member firm has, in the prior five years, one or more “final criminal matters” or two or more “specified risk events.”⁸ The amendments to the Rule 1000 Series will become effective on September 1, 2021.⁹

To provide clarity to member firms determining whether they need to seek a materiality consultation or approval of a CMA, the Misconduct Rule defines “specified risk event” to mean “any one of the . . . events” described in Rule 1011(p) “that are disclosed, or are or were required to be disclosed, on an applicable Uniform Registration Form.”¹⁰ The events described in Rule 1011(p) include, among others, a “final regulatory action” as set forth in Rule 1011(p)(4). Specifically, Rule 1011(p)(4) describes “a final regulatory action” to include final regulatory actions “where (A) the total monetary sanctions (including civil and administrative penalties or fines, disgorgement, monetary penalties other than fines, or restitution) were ordered for a dollar amount at or above \$15,000; or (B) the sanction against the person was a bar (permanently or temporarily), expulsion, rescission, revocation, or suspension from associating with a member.” The proposed rule change

⁷ See *supra* note 3.

⁸ See December 2020 Order at 81541. In general, a member firm initiates a materiality consultation with FINRA’s Department of Member Regulation (“Member Regulation”) by submitting a letter requesting its determination as to whether a proposed change is material such that it requires the submission of a Continuing Membership Application (“CMA”). If Member Regulation determines that a proposed change is material, it will instruct the broker-dealer to file a CMA if it intends to proceed with the proposed change. See Regulatory Notice 18–23 (Proposal Regarding the Rules Governing the New and Continuing Membership Application Process) (Jul. 2018); see also December 2020 Order at n. 9.

⁹ See Regulatory Notice 21–09 (Mar. 2021).

¹⁰ See FINRA Rule 1011(p); see also Notice at 28406. FINRA Rule 1011(r) defines “Uniform Registration Forms” to mean the Uniform Application for Broker-Dealer Registration (Form BD), the Uniform Application for Securities Industry Registration or Transfer (Form U4), the Uniform Termination Notice for Securities Industry Registration (Form U5) and the Uniform Disciplinary Action Reporting Form (Form U6), as such may be amended or any successor(s) thereto.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Exchange Act Release No. 90635 (Dec. 10, 2020), 85 FR 81540 (Dec. 16, 2020) (Order Approving File No. SR–FINRA–2020–011) (“December 2020 Order”).

⁴ See Exchange Act Release No. 91959 (May 20, 2021), 86 FR 28405 (May 26, 2021) (File No. SR–FINRA–2021–011) (“Notice”).

⁵ See letter from Isaiah Sanderman, dated May 28, 2021 (“Sanderman Letter”), available at <https://www.sec.gov/comments/sr-finra-2021-011/srfinra2021011-8852748-238381.htm>.

⁶ See letter from Michael Garawski, Associate General Counsel, OGC Regulatory Practice and Policy, FINRA, to Daniel Fisher, Branch Chief, Division of Trading and Markets, Commission, dated July 9, 2021, available at SR–FINRA–2021–011-Extension1.pdf.

would delete from Rule 1011(p)(4) the phrase “from associating with a member,” which appears after the word “suspension.”¹¹

III. Discussion and Commission Findings

After careful review of the proposed rule change and the comment letter, the Commission finds that the proposed rule change is consistent with the requirements of the Exchange Act and the rules and regulations thereunder that are applicable to a national securities association.¹² Specifically, the Commission finds that the proposed rule change is consistent with Section 15A(b)(6) of the Exchange Act,¹³ which requires, among other things, that FINRA rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

A. Consistent With Basis for Approving the December 2020 Order

FINRA stated that including the phrase “from associating with a member” in Rule 1011(p)(4) was an “inadvertent drafting error” that inappropriately narrowed the “final regulatory actions” included in the “specified risk event” definition.¹⁴ In particular, FINRA notes that the current rule may be interpreted to exclude from the definition of “specified risk event” final SEC and CFTC regulatory actions where the sanction against the person was a suspension other than a suspension from associating with a member.¹⁵ FINRA stated that it did not intend to narrow the scope of “final regulatory actions” that are included in the “specified risk event” definition in this manner.¹⁶ Rather, FINRA stated that it intended Rule 1011(p)(4) to be consistent with Rule 1011(p)(3), which describes the “final investment-related civil actions” that are included in the “specified risk event” definition. Rule 1011(p)(3) includes final investment-related civil actions that result in a “suspension,” and does not limit the suspensions to suspensions from associating with a member.¹⁷ FINRA further cited the mapping exhibits it provided in SR-FINRA-2020-011 to illustrate its intent to include “final

regulatory actions” beyond those resulting in suspensions “from associating with a member” in the “specified risk event” definition. FINRA stated that these exhibits demonstrated how the “final regulatory actions” included within the scope of the “specified risk event” definition should include final regulatory actions disclosed on the Uniform Registration Forms that resulted in a suspension.¹⁸ FINRA stated that those mapping exhibits are consistent with how the relevant sanctions-related questions on the Uniform Registration Forms require the reporting of regulatory actions initiated by numerous regulators and self-regulatory organizations—not just FINRA—and include data fields for suspensions.¹⁹

FINRA believes that by amending Rule 1011(p)(4) to accurately describe the “final regulatory actions” that the definition of “specified risk event” should include, the proposed rule change would provide greater clarity to members and the public and serve the intended investor-protection purposes of the Misconduct Rule.²⁰

B. The Proposed Rule Change Would Impose No Additional Burden

FINRA does not believe that the proposed rule change would result in any additional burdens not already contemplated in SR-FINRA-2020-011.²¹ FINRA stated that the aspect of the economic impact assessment undertaken in SR-FINRA-2020-011 that pertained to the amendments to the Rule 1000 Series was based on the broader scope for the “final regulatory actions” that are included in the “specified risk event” definition that FINRA is proposing here.²² Consistent with FINRA’s original intent, the broader scope for the “final regulatory actions” that are included in the “specified risk event” definition includes final SEC and CFTC regulatory actions where the sanction against the

person was a suspension other than a suspension from associating with a member.²³

The Commission received one comment letter in response to the proposed rule change. Because the letter failed to address any component of the proposed rule change, the Commission believes the comment is beyond the scope of the proposal.²⁴

In sum, the Commission finds that the proposed rule change is consistent with its findings in the December 2020 Order. In the December 2020 Order, the Commission found that the Misconduct Rules would result in “greater investor protections by helping address the concerns raised by associated persons with a significant history of misconduct and the broker-dealers that employ them.”²⁵ Specifically, the Commission stated that the Misconduct Rules would “strengthen the tools available to FINRA in responding to associated persons who have a significant history of misconduct” and were sufficiently tailored “to target the specific misconduct it seeks to address, which would minimize the potential costs to broker-dealers.”²⁶ The Commission agrees that by amending the “final regulatory actions” that are included in the “specified risk event” definition, the proposed rule change would provide greater clarity to members and the public and serve the intended investor protection purposes of the Misconduct Rules approved in the December 2020 Order.²⁷ The Commission also agrees with FINRA’s assessment that the proposed rule change would impose no additional burden not already contemplated and approved by the Commission.

IV. Conclusion

It is therefore ordered pursuant to Section 19(b)(2) of the Exchange Act²⁸ that the proposal (SR-FINRA-2021-011), be and hereby is approved.

²³ *Id.*

²⁴ See Sanderman Letter.

²⁵ See December 2020 Order at 81548.

²⁶ *Id.*

²⁷ See December 2020 Order at 81546 (explaining that the rules approved in SR-FINRA-2020-011 “further promote investor protection by applying additional safeguards and disclosure obligations for a broker-dealer’s continuing membership with FINRA and for changes to a current member broker-dealer’s ownership, control, or business operations,” where those changes involve persons with a significant history of misconduct). See Notice at note 9.

²⁸ 15 U.S.C. 78s(b)(2).

¹⁸ See Form 19b-4, Exs. 3a and 3b, File No. SR-FINRA-2020-011, available at <https://www.finra.org/sites/default/files/2020-04/SR-FINRA-2020-011.pdf>; see also Notice at n. 7.

¹⁹ See Form U4, Regulatory Action Disclosure Reporting Page, Questions 1 (requesting information about which regulator initiated the regulatory action) and 13 (Sanction Detail); Form BD, Regulatory Action Disclosure Reporting Page, Part II, Questions 1 (requesting information about which regulator initiated the regulatory action) and Question 2 (Principal Sanction). FINRA also stated that the data that it provided in SR-FINRA-2020-011 concerning the regulatory action disclosures included regulatory actions that resulted in any suspension, not just suspensions from associating with a member; see also Notice at n. 8.

²⁰ See Notice at 28407.

²¹ *Id.*

²² *Id.*

¹¹ See *supra* note 4.

¹² In approving this rule change, the Commission has considered the rule’s impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

¹³ 15 U.S.C. 78o-3(b)(6).

¹⁴ See Notice at 28406.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Jill M. Peterson,
Assistant Secretary.

[FR Doc. 2021-18237 Filed 8-24-21; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92709; File No. SR-CBOE-2021-046]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 5.4 and Make Corresponding Changes to Other Rules

August 19, 2021.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 (the “Act”),² and Rule 19b-4 thereunder,³ notice is hereby given that on August 6, 2021, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) proposes to amend Rule 5.4 and make corresponding changes to other Rules. The text of the proposed rule change is provided below.

(additions are *italicized*; deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 5.4. Minimum Increments for Bids and Offers

(a) No change.

(b) Except as provided in Rule 5.33, the minimum increment for bids and offers on complex orders [with any ratio equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) for equity and index options, and for Index Combo orders,] is \$0.01 or greater, which may be determined by the Exchange on a class-by-class basis, and the legs may be executed in \$0.01 increments. [The minimum increment for

bids and offers on complex orders with any ratio less than one-to-three (.333) or greater than three-to-one (3.00) for equity and index options (except for Index Combo orders) is the standard increment for the class pursuant to paragraph (a), and the legs may be executed in the minimum increment applicable to the class pursuant to paragraph (a).] Notwithstanding the foregoing, the minimum increment for bids and offers on complex orders in options on the S&P 500 Index (SPX) or on the S&P 100 Index (OEX and XEO), except for box/roll spreads, is \$0.05 or greater, or in any increment, which may be determined by the Exchange on a class-by-class basis.

* * * * *

Rule 5.33. Complex Orders

Trading of complex orders (as defined in Rule 1.1) is subject to all other Rules applicable to the trading of orders, unless otherwise provided in this Rule 5.33.

(a)-(e) No change.

(f) *Minimum Increments, Execution Prices, and Priority.*

(1) *Minimum Increments.* No change.

(2) *Execution Prices and Complex Order Priority.*

(A) *Complex Orders.* The System does not execute a complex order pursuant to this Rule 5.33 at a net price:

(i)-(iv) No change.

(v) that would cause any component of the complex strategy to be executed at a price ahead of a Priority Customer Order on the Simple Book without improving the BBO of (a) at least one component of the complex strategy, *if the complex order has a ratio equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00), or is an Index Combo order, or (b) each component of the complex strategy with a Priority Customer Order at the BBO, if the complex order has a ratio less than one-to-three (.333) or greater than three-to-one (3.00).*

* * * * *

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change amends the minimum increment for complex orders with ratios of greater than three-to-one or less than one-to-three. Currently, Rule 5.4(b) provides that the minimum increment for bids and offers on complex orders with any ratio greater than or equal to one-to-three (.333) and less than or equal to three-to-one (3.00) for equity and index options, and for Index Combo⁴ orders, is \$0.01 or greater, which may be determined by the Exchange on a class-by-class basis, and the legs may be executed in \$0.01 increments. However, the minimum increment for bids and offers on complex orders with any ratio less than one-to-three (.333) or greater than three-to-one (3.00) for equity and index options (except for Index Combo orders) is the standard increment for the class pursuant to Rule 5.4(a), and the legs may be executed in the minimum increment applicable to the class pursuant to paragraph 5.4(a).⁵ The Exchange currently only permits complex orders with ratios greater than three-to-one or less than one-to-three for execution on the Exchange's trading floor.⁶ The proposed rule change provides that the minimum increment for bids and offers on complex orders with any ratio may be in \$0.01 or greater, as determined by the Exchange on a class-by-class basis. This will provide TPHs with the same pricing flexibility with respect to all complex orders they submit to the Exchange, regardless of their ratios.

Complex orders involve special pricing and handling. Bids and offers for

⁴ An “Index Combo” order is an order to purchase or sell one or more index option series and the offsetting number of Index Combinations (with an “Index Combination” defined as a purchase (sale) of an index option call and sale (purchase) of an index option put with the same underlying index, expiration date, and strike price) defined by the delta (defined as the positive (negative) number of Index Combinations that must be sold (purchased) to establish a market neutral hedge with one or more series of the same index option. See Rule 5.33(b)(5).

⁵ The minimum increment for bids and offers on complex orders in options on the S&P 500 Index (SPX) or on the S&P 100 Index (OEX and XEO), except for box/roll spreads, is \$0.05 or greater, or in any increment, which may be determined by the Exchange on a class-by-class basis. Rule 5.4(c) sets forth the minimum increment applicable to other types of options.

⁶ If the Securities and Exchange Commission (the “Commission”) approves the proposed rule change, the Exchange intends to begin accepting complex orders with ratios greater than three-to-one or less than one-to-three for electronic execution, in addition to open outcry.

²⁹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

complex orders are typically represented on the basis of a total debit or credit for the order. After a complex order executes at the total debit or credit, the parties to the trade record the contract quantities and prices for each component option of the order. For complex orders executed electronically, the Exchange's system performs this calculation (within the pricing and priority parameters set forth in Rule 5.33(f)). For complex orders executed in open outcry, this task is straightforward and uncomplicated when the total debit or credit for a complex strategy expressed in the minimum increment under Rule 5.4(b).⁷ However, if a complex order is unable to be expressed in increments smaller than the increment for the class (such as \$0.05), it may be difficult for brokers to obtain the desired prices for their customers' orders, because the transaction parties must perform complicated and time-consuming mathematical calculations to break down a complex order into the required contract quantities and prices to fit within the constraint of executing complex orders at a minimum increment other than \$0.01.⁸ This difficulty is exacerbated when the quantity of such an order is an odd lot quantity (such as 106 contracts). The result is that on active trading days, brokers executing these types of orders cannot be as efficient in representing other customer orders that they are holding. This difficulty exists for complex orders with any ratio and with legs in any combination.

The proposed rule change will enable Trading Permit Holders ("TPHs") to execute complex orders more

efficiently, including on behalf of customers that wish to execute highly complicated complex orders, by permitting the parties to execute the trades more expeditiously on the trading floor. As noted above, the Exchange also intends to accept complex orders with ratios larger than three-to-one or smaller than one-to-three for electronic execution, which would further improve efficiency of execution of electronic orders, as the System would perform this calculation. The Exchange believes this increased efficiency would increase execution opportunities for complex orders with investment strategies that do not fit within the three-to-one ratio requirement. Additionally, the proposed rule change may enable TPHs to execute customers' complex orders with these larger ratios at better prices, rather than executing at prices that fit within the confines of a larger increment.

While the proposed rule change amends the minimum increment at which all complex orders and their legs may execute, the Exchange does not propose to extend the complex order priority afforded to complex orders with ratios equal to or greater than one-to-three and less than or equal to three-to-one to these larger-ratio complex orders. Electronic execution of complex orders with any ratio will continue to be required at net prices: (i) That would cause any component of the complex strategy to be executed at a price of zero; (ii) worse than the Synthetic Best Bid or Offer ("SBBO")⁹ or equal to the SBBO when there is a priority customer order at the SBBO (except all-or-none ("AON")); (iii) that would cause any component of the complex strategy to be executed at a price worse than the individual component prices on the Simple Book; or (iv) worse than the price that would be available if the complex order legged into the Simple Book. The proposed rule change amends Rule 5.33(f)(2)(A)(v) to provide that a complex order may not execute at a net price that would cause any component of the complex strategy to be executed at a price ahead of a Priority Customer Order on the Simple Book without improving the BBO of (a) at least one component of the complex strategy, if the complex order has a ratio equal to

or greater than one-to-three (.333) and less than or equal to three-to-one (3.00), or is an Index Combo order (which is consistent with current functionality and thus for all complex orders that may be executed electronically), or (b) each component the complex strategy with a Priority Customer Order at the BBO, if the complex order has a ratio less than one-to-three (.333) or greater than three-to-one (3.00) (which is consistent with current open outcry rules, where complex orders with any such ratio may currently be executed).¹⁰ As a result, to the extent a complex order with a ratio of four-to-one (for example) is submitted for electronic execution, the complex order may be executed at a net debit or credit price only if each leg of the order betters the corresponding bid (offer) of a priority customer order(s) in the Simple Book. Therefore, the complex order priority rules will continue to protect Priority Customer interest on the Simple Book.

When the Exchange first proposed to restrict penny pricing for complex orders to those with ratios no greater than three-to-one, investors had only begun to use multi-leg strategies. At the time, the Commission held that "ratio orders within certain permissible ratios may provide market participants with greater flexibility and precision in effectuating trading and hedging strategies."¹¹ In the nearly 20 years since, market participants have expanded the use and complexity of multi-leg trading strategies, which represent a critical portion of their overall investment strategies, while the rules regarding the increments of larger-ratio orders have remained unchanged and no longer reflect the current marketplace. Market participants regularly submit legitimate multi-leg trading and hedging strategies with ratios greater than three-to-one (or less than one-to-three). From January 3

¹⁰ See Rule 5.85(b).

¹¹ See Securities Exchange Act Release 48858 (December 1, 2003), 68 FR 68128 (December 5, 2003) (SR-CBOE-2003-007) ("Approval Order"). In approving ratio orders (which had ratios no less than one-to-three and no greater than three-to-one), the Commission stated that "[t]he Commission believes that ratio orders within certain permissible ratios may provide market participants with greater flexibility and precision in effectuating trading and hedging strategies. In addition, the Commission believes that including such ratio orders in the exception to the priority rules provided in CBOE Rule 6.45(e) will facilitate the execution of ratio orders. In this regard, the Commission believes that the procedures governing the execution of complex orders, such as ratio orders, serve to reduce the risk of incomplete or inadequate executions while increasing efficiency and competitive pricing by requiring price improvement before the order can receive priority over other orders." *Id.* Pursuant to SR-CBOE-2019-060, Rule 6.45 was replaced with Rule 5.33.

⁷ For example, assume the market for the December SPX 4350 calls is 18 bid, 19 asked, and the market for the December SPX 4375 calls is 6.50 bid and 7.50 asked. The fair value of a call comprised of one leg to buy and one leg to sell the same number of contracts of this series is 11.50 (the difference between the prices quoted for each option). If an order to buy 100 of the 4350 calls and to sell 100 of the 4375 calls is quoted and executed at a net debit of 11.50 (expressed in a multiple of the minimum increment), the parties to the trade can easily determine and record a price for each component option that comprises the complex order. Any combination of purchase and sale prices within the quoted ranges for the component options that yield a net debit or credit of 11.50 could be used (e.g., 18.50 for the 4350 calls, and 7 for the 4375 calls).

⁸ Using the example in the previous footnote, if instead a customer wants to pay 11.48 rather than 11.50 for a complex order, in order to determine prices for the component options that are expressed in a multiple of \$0.05 the trader must perform a series of calculations. In this case, the trader might determine that the trade must be split up into a 40-contract spread that traded at a net debit of 11.45 and a 60-contract spread that traded at a net debit of 11.50, which together yield a net debit of 11.48 for the entire amount. This is ultimately a better net price for the customer.

⁹ The "SBBO" means the best bid and offer on the Exchange for a complex strategy calculated using (1) for complex orders, the BBO for each component (or the NBBO for a component if the BBO for that component is not available) of a complex strategy from the Simple Book; and (2) for stock-option orders, the BBO for each option component (or the NBBO for a component if the BBO for that component is not available) and the NBBO of the stock component of a complex strategy.

through June 17, 2021, nearly 31% of complex orders executed on the Exchange's trading floor had a ratio greater than three-to-one. For example, a complex order consisting of one leg to buy 30 VIX calls and another leg to sell 30 VIX puts—both in the same series—combined with a third leg to purchase 100 VIX calls in a separate series that have a delta of “30” (30% or .30) creates a delta neutral position, and there is no reason such a transaction should not receive the complex order benefits. However, market participants who submit such orders are disadvantaged compared to strategies with smaller ratios due to the restrictiveness of the current pricing increment. The Exchange sees no reason to restrict complex orders with a ratio of four-to-one, for example, in a class with a minimum increment of \$0.05 from being expressed in, or having their legs execute in, \$0.01 increments while legs of complex orders with a ratio of three-to-one in the same class may be expressed in, and have their legs execute in, \$0.01 increments.¹² The Exchange believes it is appropriate to expand the availability of the smaller pricing increment to complex orders with larger ratios so that all market participants may have the same flexibility with respect to the pricing of their multi-legged investment strategies, regardless of ratio. In the same way the Commission held that “the procedures governing the execution of complex orders, such as . . . orders [with ratios no greater than three-to-one or less than one-to-three], serve to reduce the risk of incomplete or inadequate executions while increasing efficiency and competitive pricing by requiring price improvement before the order can receive priority over other orders[.]”¹³ the Exchange believes expanding penny pricing to all complex orders regardless of ratios will serve to reduce the risk of incomplete or inadequate executions for larger-ratio complex orders while increasing efficiency and competitive pricing by requiring price improvement

before the order can receive priority over other orders.

The Exchange understands that the Commission is concerned that the simple order market may be somehow disadvantaged by allowing larger-ratio multi-legged orders to receive the complex order benefit. The chief concern appears to be that if the ratios are too greatly expanded, market participants will, for example, enter multi-legged strategies designed primarily to trade orders in a class in pennies that cannot otherwise execute as simple orders in that class in pennies rather than to effectuate a bona fide trading or hedging strategy. Additionally, the Commission believes there is a risk that market participants may possibly enter such strategies to trade ahead of orders on the book by a smaller amount.¹⁴ The Exchange first notes a significant amount of volume executed on the Exchange is already done in penny increments. From January 3 through June 17, 2021, over half the volume executed on the Exchange as part of a complex order, the majority of which (all electronic complex orders and all open outcry complex orders with ratios no greater than three-to-one (which represents nearly 70% of open outcry complex orders)) are able to trade in pennies (both the package price and leg prices, except for SPX, for which the package price must be in nickels, but the legs may trade in pennies) under current rules. Additionally, during that same time period, approximately 43% of simple volume on the Exchange executed in AIM Auctions, which permit executions in pennies (for all classes except SPX). Therefore, the majority of contracts that execute on the Exchange already execute in pennies (even though penny increments are available for fewer than 400 classes),¹⁵ and the Exchange does not believe permitting all complex orders to trade in pennies will significantly increase the volume that may already execute in pennies on the Exchange.

The Exchange believes it is highly unlikely that market participants will submit non-bona-fide trading strategies with larger ratios just to trade in pennies. First, with respect to a non-bona-fide trading strategy, it is unlikely

other market participants would rest an order for such a strategy on the complex order book or be willing to execute against such an order given that it is a non-bona-fide strategy, thus reducing the likelihood a market participant would be able to execute such strategy. Additionally, adding a single leg to a larger order just to obtain penny pricing may further reduce execution opportunities for that order, because it may be less likely that sufficient contracts in the appropriate ratio would be available. The Exchange also believes it is unlikely market participants will attempt to submit large-ratio complex orders solely to use penny pricing to trade ahead of customers on the simple book. From January 2 to June 17, 2021, there was only a customer order on the top of the book across all series listed on the Exchange for 0.328% of that time. Therefore, there would be minimal amounts of time when a market participant would even have the need to attempt to do this. Additionally, as proposed, unlike complex orders with ratios between one-to-three and three-to-one, complex orders with ratios less than one-to-three or greater than three-to-one will have to improve all legs with customers on the book, rather than just improve one leg like complex orders with smaller ratios, and such orders would also have to honor away markets. Therefore, if a market participant were to attempt to submit a complex order with a large ratio¹⁶ primarily to trade in pennies or ahead of customers, it may need to improve more legs than a smaller ratio order, and would have to honor all away markets, potentially reducing any potential savings the market participant was attempting to achieve. Note also that rather than adding an extra leg to a large order simply to be able to improve the book by \$0.01 is unnecessary because such order could already be executed in an AIM Auction in \$0.01 increments. Additionally, these orders would be subject to review by the Exchange's regulatory division, which may determine submission of such orders to be in violation of the Exchange's Rules, including Rule 8.1, which prohibits TPHs from engaging in acts or practices inconsistent with just and equitable principles of trade. For these reasons, the Exchange believes there is a de minimis chance that market participants would submit non-bona-fide trading strategies to trade the legs in pennies or

¹² Currently, simple orders in classes with minimum increments of \$0.05 or \$0.10 may trade in penny increments in certain circumstances. *See, e.g.,* Rule 5.37(a)(4) (pursuant to which the minimum price improvement increment for the Automated Improvement Mechanism (“AIM”) must be at least \$0.01, which is the current minimum increment as determined by the Exchange for all classes eligible for AIM except for S&P 500 Index (“SPX”) options); and Rule 5.33(f)(1)(B) (pursuant to which the option leg(s) of a stock-option order may be \$0.01 or greater, which the Exchange determines on a class-by-class basis, regardless of the minimum increments otherwise applicable to the option leg(s)); *see also* Rule 5.39(a)(4).

¹³ *See* Approval Order at 68128.

¹⁴ Although the marketplace may in fact be better served by a structure that does not require multi-legged orders to, among other things, yield priority to a simple order (which cannot on its own satisfy the terms of a multi-leg order), this proposal does not require the Commission to pass judgment on that issue.

¹⁵ *See* Rule 5.4(d) (which provides that the penny program applies to 363 of the over 2000 classes that currently trade on the Exchange).

¹⁶ A market participant could already attempt to do this today by submitting a smaller-ratio complex order by adding an inexpensive, out-of-the-money leg to an order. However, the Exchange has not observed this behavior.

trade ahead of customers on the book and that the benefits of permitting all complex orders to trade in pennies significantly outweigh this risk.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁷ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁸ requirements that the rules of an exchange 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 securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹⁹ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the proposed rule change will remove impediments to and perfect the mechanism of a free and open market and benefit investors, because it will provide market participants with the same pricing flexibility with respect to all their complex trading and hedging strategies. Market participants may determine that investment and hedging strategies with ratios greater than three-to-one or less than one-to-three are appropriate for their investment purposes, and the Exchange believes it will benefit market participants if they have additional flexibility to price their investment and hedging strategies to achieve their desired investment results. The Exchange believes the proposed rule change will help protect investors by allowing market participants to receive the benefit of complex order pricing when executing bona-fide multi-legged trading or hedging strategies. The Exchange sees no reason to restrict complex orders with a ratio of greater than three-to-one (or less than one-to-three) in a class with a minimum increment of \$0.05 from being expressed in, or having their legs execute in, \$0.01 increments

while legs of complex orders with a ratio equal to or less than or equal to three-to-one (or greater than or equal to one-to-three) in the same class may be expressed in, and have their legs execute in, \$0.01 increments. The proposed rule change will further remove impediments to and perfect the mechanism of a free and open market and a national market system, as another options exchange permits complex orders with any ratio and their legs to trade in pennies.²⁰

These changes will also enable traders on the Exchange’s trading floor to more efficiently execute all complex orders, including on behalf of customers that wish to execute highly complicated complex orders, by permitting the parties to execute the trades more expeditiously.²¹ Additionally, as discussed above, this may enable TPHs to execute customers’ complex orders at better prices, rather than executing at prices that fit within the confines of a larger increment, which ultimately benefits investors.

The proposed rule change will continue to protect priority customer order interest on the Simple Book in the same manner it does today, as all complex orders with a ratio greater than three-to-one or less than one-to-three (except Index Combo orders) will continue to be executed only if each leg of the order improves the price of a priority customer order on the Simple Book on each leg by at least the applicable minimum trading increment.²² The proposed rule change has no impact on the priority of complex orders, as complex orders with ratios less than .333 or greater than 3.00 will continue to be required to improve the price of leg of the complex order for which a Priority Customer Order is resting at the BBO in the Simple Book, and thus will continue to protect Priority Customer Orders in the Simple Book.

Furthermore, the Exchange believes this proposal is consistent with the Act

and SR-CBOE-2003-007 because in the same way that the Commission held that “ratio orders within certain permissible ratios may provide market participants with greater flexibility and precision in effectuating trading and hedging strategies[.]”²³ complex orders that are fully hedged may provide market participants with greater flexibility and precision in effectuating trading and hedging strategies. The Exchange also believe this proposal is consistent with the Act and SR-CBOE-2003-007 because in the same way that the Commission held that “including such ratio orders in the exception to the priority rules provided in CBOE Rule 6.45(e) will facilitate the execution of ratio orders[.]”²⁴ including fully hedged complex orders in the exception to the priority rules provided in CBOE Rule 6.45(b)(ii) will facilitate the execution of fully hedged complex orders. Finally, in the same way that the Commission held that “the procedures governing the execution of complex orders, such as ratio orders, serve to reduce the risk of incomplete or inadequate executions while increasing efficiency and competitive pricing by requiring price improvement before the order can receive priority over other orders[.]”²⁵ the Exchange believes the procedures governing the execution of fully hedged complex orders serve to reduce the risk of incomplete or inadequate executions while increasing efficiency and competitive pricing by requiring price improvement before the order can receive priority over other orders. The Exchange believes the proposed changes will increase opportunities for execution of complex orders and lead to tighter spreads on CBOE, which will benefit investors. The Exchange also believes that the proposed rule change is designed to not permit unfair discrimination among market participants, as all market participants may trade complex orders, and the priority eligibility requirements apply to complex orders of all market participants.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change will impose any burden on intramarket competition, as the proposed rule change will apply in the

²⁰ See BOX Options LLC (“BOX”) Rule 7600(c) (which rule is silent on the minimum increment for orders submitted for execution on BOX’s trading floor, but the Exchange has been informed by multiple TPHs that are also members of BOX that they may execute multi-legged orders (with ratios greater than three-to-one or less than one-to-three) on BOX’s trading floor in penny increments).

²¹ As noted above, there are instances in which simple orders with minimum increments of \$0.05 or \$0.10 may trade in penny increments. See *supra* note 8.

²² See proposed Rule 5.34(f)(A)(v) and current Rule 5.85(b). As noted above, currently, complex orders with ratios greater than three-to-one or less than one-to-three may only be submitted for open outcry trading. If the Commission approves the proposed rule change, the Exchange will permit such orders to be submitted for electronic execution in addition to open outcry execution.

²³ See Approval Order at 68128.

²⁴ See *Id.*

²⁵ See *Id.*

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ *Id.*

same manner to all TPHs. TPHs will have the discretion to submit complex orders with any ratio in the increments permitted by the proposed rule change. The proposed rule change will eliminate a current pricing disparity that exists between complex orders within the same class and thus provide the same pricing flexibility to all complex orders, regardless of their ratios. The Exchange does not believe the proposed rule change will impose any burden on intermarket competition, as it relates to the representation and execution of orders on the Exchange and will continue to protect Priority Customer Orders on the Simple Book. The Exchange believes the proposed rule change may promote competition, as market participants will have additional flexibility to execute their trading and hedging strategies in a more efficient manner and will permit all complex orders in the same class to trade in the same increments. Additionally, the Exchange understands from TPHs that another options market currently permits complex orders with ratios greater than three-to-one or less than one-to-three and their legs to execute in penny increments on its trading floor.²⁶

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period 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 Exchange 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-CBOE-2021-046 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2021-046. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-CBOE-2021-046, and should be submitted on or before September 15, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁷

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2021-18236 Filed 8-24-21; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 11515]

Industry Advisory Group; Notice of Charter Renewal

The Department of State has renewed the charter for the Bureau of Overseas Buildings Operations' (OBO) Industry Advisory Group for an additional two-year period. The committee advises OBO's senior management on issues relating to real property portfolio management, planning, acquisition, sales, leasing, design, engineering, construction, historic preservation, resiliency, natural hazards, emergency operations, program development, as well as facilities operations and maintenance.

OBO provides safe, secure, functional, and resilient facilities that represent the U.S. government to the host nation and support staff in the achievement of U.S. foreign policy objectives. These facilities represent American values and the best in American architecture, design, engineering, technology, sustainability, art, culture, and construction execution.

The authority for this Notice is the Federal Advisory Committee Act, 5 U.S.C. appendix. For further information, please contact Christine Foushee at FousheeCT@state.gov.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, U.S. Department of State.

[FR Doc. 2021-18227 Filed 8-24-21; 8:45 am]

BILLING CODE 4710-51-P

DEPARTMENT OF STATE

[Public Notice: 11512]

Industry Advisory Group; Notice of Open Meeting

The Industry Advisory Group (IAG) of the Bureau of Overseas Buildings Operations (OBO), U.S. Department of State, will meet on Friday, September 17, 2021, from 9:00 a.m. until 1:00 p.m. Eastern Daylight Time. The meeting is open to the public and will be held via Webex Event.

The IAG serves the U.S. government in a solely advisory capacity concerning industry and academia's latest concepts, methods, best practices, innovations, and ideas related to the OBO mission of providing safe, secure, resilient and functional facilities that represent the U.S. government to the host nation and support the Department's achievement of U.S. foreign policy objectives abroad.

The majority of the meeting will be devoted to discussions between the

²⁶ See *supra* note 16.

²⁷ 17 CFR 200.30-3(a)(12).

Department's senior management and IAG representatives with respect to industry and academia's latest concepts, methods, best practices, innovations, and ideas related to supporting OBO's vital mission. Additionally, time will be provided for members of the public to provide comment.

To register, please provide your email address via email to IAGR@state.gov prior to September 7. Also, please forward any requests for reasonable accommodation by September 7. You can also visit the OBO website at <http://overseasbuildings.state.gov/> for additional information. Requests for reasonable accommodation made after that date will be considered but may not be able to be fulfilled.

Please contact IAGR@state.gov with any questions.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, U.S. Department of State.

[FR Doc. 2021-18224 Filed 8-24-21; 8:45 am]

BILLING CODE 4710-51-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36532]

Finger Lakes Railway Corp.— Continuance in Control Exemption— Midcoast Railservice, Inc.

Finger Lakes Railway Corp. (FGLK), a Class III rail carrier, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Midcoast Railservice, Inc. (Midcoast), a noncarrier, upon Midcoast's becoming a rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in *Midcoast Railservice, Inc.—Change of Operators Exemption—Central Maine & Quebec Railway*, Docket No. FD 36531, in which Midcoast seeks to assume operations over approximately 58.68 miles of rail line currently operated by Central Maine & Quebec Railway US, Inc., in Cumberland, Knox, Lincoln, and Sagadahoc Counties, Me.

The transaction may be consummated on or after September 8, 2021, the effective date of the exemption (30 days after the verified notice was filed).

According to the verified notice of exemption, FGLK currently controls the Ontario Central Railroad Corp., a Class III carrier operating solely in the state of New York.¹

FGLK represents that: (1) The rail line to be leased and operated by Midcoast

does not connect with the rail lines of any of the rail carriers in FGLK's corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the line to be operated by Midcoast with the rail lines of any carriers in FGLK's corporate family; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than September 1, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36532, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, one copy of each pleading must be served on FGLK's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to FGLK, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at www.stb.gov.

Decided: August 20, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,
Clearance Clerk.

[FR Doc. 2021-18279 Filed 8-24-21; 8:45 am]

BILLING CODE 4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36531]

Midcoast Railservice, Inc.—Change of Operators Exemption—Central Maine & Quebec Railway US, Inc.

Midcoast Railservice, Inc. (Midcoast), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1150.31(a)(3) to assume operations over approximately 58.68 miles of rail line (the Line) currently operated by Central Maine & Quebec Railway US, Inc. (CMQ), pursuant to a Lease and Operating Agreement (the Agreement) between the owner of the Line, the State of Maine Department of Transportation (Maine DOT), and CMQ. The Line consists of: (1) The Brunswick Terminal Area between the east side of Church Road, milepost 14.97, and Rock Jct., milepost 16.40; (2) the Rockland Branch between milepost 29.40 in Brunswick, Cumberland County, Me., and milepost 85.55 in Rockland, Knox County, Me.; and (3) the Atlantic Branch Line between milepost 85.55 and milepost 86.65 in Rockland. The Line runs through Cumberland, Knox, Lincoln, and Sagadahoc Counties, Me.¹

This transaction is related to a verified notice of exemption filed concurrently in *Finger Lakes Railway—Continuance in Control Exemption—Midcoast Railservice, Inc.*, Docket No. FD 36532, in which Finger Lakes Railway Corp. seeks to continue in control of Midcoast upon Midcoast's becoming a rail carrier.

According to the verified notice, an Assignment, Assumption and Consent Agreement (the Assignment) has been executed by Midcoast and CMQ and consented to by Maine DOT. Under the Assignment, CMQ is assigning its rights under the Agreement, and its associated common carrier service rights to operate the Line, to Midcoast. Midcoast will assume the Agreement and become the operator of the Line. Upon commencement of operations, Midcoast will become a Class III common carrier.

According to Midcoast, the Agreement does not impose or include an interchange commitment. Midcoast certifies that its projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail

¹ Midcoast notes that the mileposts and mileage differ slightly from those shown by CMQ when it took over operations of the Line in 2015. See *Cent. Me. & Quebec Ry.—Lease & Operate Exemption—State of Me.*, FD 35975 (STB served Dec. 4, 2015). Midcoast believes the discrepancies relate to CMQ's use of control points, rounding, and typographical errors. Midcoast states that it will assume the operations of all of the lines operated by CMQ pursuant to the Agreement.

¹ See *Finger Lakes Ry.—Control Exemption—Ontario Cent. R.R.*, FD 35062 (STB served Oct. 1, 2007).

carrier and that its revenues will not exceed \$5 million.

Under 49 CFR 1150.32(b), a change in operator exemption requires that notice be given to shippers. Midcoast states that it provided notice to shippers on the Line by serving them with a copy of the verified notice, as indicated in the certificate of service.

The transaction may be consummated on or after September 8, 2021, the effective date of the exemption.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than September 1, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36531, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on Midcoast's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to Midcoast, this action is categorically excluded from historic preservation reporting requirements under 49 CFR 1105.8(b) and from environmental reporting requirements under 49 CFR 1105.6(c).

Board decisions and notices are available at www.stb.gov.

Decided: August 20, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Aretha Laws-Byrum,
Clearance Clerk.

[FR Doc. 2021-18278 Filed 8-24-21; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2021-0076]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on July 8, 2021, the Long Island Rail Road Company (LIRR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 239 (Passenger Train Emergency Preparedness); 240 (Qualification and Certification of

Locomotive Engineers); and 242 (Qualification and Certification of Conductors). FRA assigned the petition Docket Number FRA-2021-0076.

LIRR requests an extension of the relief that was granted to the American Public Transportation Association (APTA), on behalf of its member railroads, by letter dated September 18, 2020, from certain regulations pertaining to training.¹ Specifically, LIRR refers to pages 10-11 of the FRA decision letter in Docket Number FRA-2020-0060, regarding relief from recurrent/refresher training requirements for parts 239, 240, and 242.

LIRR requests relief for approximately 30 "higher level Transportation Department employees." LIRR states that it has had to limit classroom capacity for its training sessions because of the coronavirus disease 2019 (COVID-19) pandemic and states that it has a training backlog. Although LIRR expects to eliminate this backlog for some groups of employees by September 18, 2021, when the APTA relief expires, LIRR asserts that it does not have the necessary classroom or instructor availability to catch up on training its Transportation Department higher-level employees by that date. Instead, LIRR seeks an extension to permit recurrent/refresher training of such employees to occur by December 31, 2021.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by September 9, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments

received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,
Chief Safety Officer.

[FR Doc. 2021-18243 Filed 8-24-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2021-0083]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on August 10, 2021, Terminal Railroad Association of St. Louis (Terminal Railroad) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 240 (Qualification and Certification of Locomotive Engineers); and 242 (Qualification and Certification of Conductors). FRA assigned the petition Docket Number FRA-2021-0083.

Terminal Railroad requests an extension of the relief that was granted to the American Short Line and Regional Railroad Association (ASLRRRA), on behalf of its member railroads, by letter dated September 18, 2020, from certain regulations pertaining to vision and hearing acuity.¹ Specifically, Terminal Railroad notes it seeks relief from engineer and conductor certification requirements in 49 CFR 240.121, *Criteria for vision and hearing acuity data*, and 242.117, *Vision and hearing acuity*.

Terminal Railroad states that it has performed multiple searches to locate a clinic to perform vision and hearing acuity testing as required by §§ 240.121

¹ See <https://www.regulations.gov/document/FRA-2020-0060-0005>.

¹ See <https://www.regulations.gov/document/FRA-2020-0063-0003>.

and 242.117, but it currently has only one clinic available. Terminal Railroad states that the increase in coronavirus disease 2019 (COVID-19) cases and the possibility of increased state restrictions may limit clinic use further.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by September 9, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety
Chief Safety Officer.*

[FR Doc. 2021-18244 Filed 8-24-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2020-0059]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on August 11, 2021, the Association of American Railroads (AAR) petitioned the Federal Railroad Administration (FRA) for an extension of an existing waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 213, 214, 217, 218, 220, 228, 232, 236, 240, 242, and 243. The relevant Docket Number is FRA-2020-0059.

AAR, on behalf of itself and its member railroads, requests to extend certain temporary, conditional relief FRA previously granted by letter dated September 18, 2020, related to the coronavirus disease 2019 (COVID-19) public health emergency. See <https://www.regulations.gov/document/FRA-2020-0059-0004>.

In support of its petition, AAR notes that the FRA Administrator's March 13, 2020, Declaration of Emergency Situation related to COVID-19 remains in effect. AAR also references statements from the U.S. Centers for Disease Control and Prevention (CDC) related to the B.1.617.2 ("Delta") variant of COVID-19. Specifically, AAR notes that the CDC has reported data showing increased COVID-19 positive tests and hospitalizations. AAR further notes that some railroads have recently begun reporting an increase in the number of positive COVID-19 employee tests and asserts that "the continuation of certain waivers is essential to the Railroads' ability to continue to protect their workforce and their critical mission."

AAR requests that FRA extend the existing relief previously granted in FRA's September 18, 2020, letter with the exception of the relief related to the operational testing requirements of 49 CFR 217.9 and related sections.

AAR requests that FRA extend the existing relief for another 12 months, or three months after the FRA Administrator's rescission of the existing COVID-19 Emergency Declaration, whichever is sooner.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov (Docket Number FRA-2020-0059).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. If any interested parties

desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by September 9, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2021-18241 Filed 8-24-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2020-0060]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on August 19, 2021, the American Public Transportation Association (APTA) petitioned the Federal Railroad Administration (FRA) for an extension of an existing waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 213, 214, 217, 218, 220, 225, 228, 229, 232, 234, 236, 240, 242, and 243. The relevant Docket Number is FRA-2020-0060.

APTA, on behalf of its member railroads, requests to extend certain temporary, conditional relief FRA

previously granted by letter dated September 18, 2020, related to the coronavirus disease 2019 (COVID-19) public health emergency. See <https://www.regulations.gov/document/FRA-2020-0060-0005>.

In support of its petition, APTA notes that the Centers for Disease Control and Prevention guidance on social distancing, as well as avoiding crowds and poorly ventilated spaces are expected to remain in place for the foreseeable future and that commuter railroads are still operating with much-reduced workforces as a result of COVID-19 (over 12,000 commuter rail employees have tested positive and/or self-quarantined over the last 17 months).

APTA requests that FRA extend the existing relief previously granted in FRA's September 18, 2020, letter for one year.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov (Docket Number FRA-2020-0060).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Communications received by September 9, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2021-18242 Filed 8-24-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2021-0027]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; National 911 Profile Database

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

ACTION: Notice and request for comments on a request for extension of a currently-approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. NHTSA is requesting an extension of its information collection to continue to collect and aggregate information from State-level reporting entities that can be used to measure the progress of 911 authorities across the country in upgrading and enhancing their existing operations. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on April 19, 2021. No comments were received.

DATES: Comments to this notice must be submitted on or before September 24, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at www.reginfo.gov/public/do/PRAMain. To find this particular information collection, select "Currently under Review—Open for Public Comment" or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Ms. Laurie Flaherty, Coordinator, National 911 Program, Office of Emergency

Medical Services, National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, NPD-400, Room W44-322, Washington, DC 20590. Ms. Flaherty's phone number is (202) 366-2705 and her email address is laurie.flaherty@dot.gov. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted OMB.

Title: National 911 Profile Database.

OMB Control Number: 2127-0679.

Form Number: N/A.

Type of Request: Request for extension of a currently-approved information collection.

Type of Review Requested: Regular.

Length of Approval Requested: Three years.

Summary of the Collection of Information: The National 911 Program is housed within NHTSA's Office of Emergency Medical Services, which has a mission to provide coordination in assessing, planning, developing, and promoting comprehensive, evidence-based emergency medical services and 911 systems. Pursuant to 47 U.S.C. 942, Coordination of 911, E911, and Next Generation 911 implementation, the National 911 Program exists to coordinate 911 efforts, collect and create resources for State and local 911 agencies, and to oversee a grant program, specifically to upgrade the nation's outdated 911 infrastructure.

NHTSA is requesting an extension of its information collection, carried out under 47 U.S.C. 942(a)(3)(B), to continue to collect and aggregate information from State-level reporting entities that can be used to measure the progress of 911 authorities across the country in upgrading and enhancing their existing operations and migrating to more advanced—digital, internet-Protocol-enabled—emergency networks. The data will be maintained in a "National 911 Profile Database." The National 911 Profile Database maintains State-specific and benchmarking data, which is later analyzed by the 911 Program for trends and findings. Collecting and sharing nationwide 911

statistics helps the 911 community better understand the state of the industry. The National 911 Profile Database enables voluntary submission of data by State and territorial 911 agencies via annual data submission. The information to be collected includes data useful for evaluating the status of 911 programs across the country, along with their progress in implementing upgraded and advanced systems and capabilities. The data elements involved will fall within two major categories: Baseline and progress benchmarks.

- “Baseline” data elements reflect the current status and nature of 911 operations from State to State. These elements are largely descriptive in nature, are intended to provide a general view of existing 911 services across the country, and are grouped within five categories: Total 911 Calls and Call Type, Number of Public Safety Answering Points (PSAPs) and Equipment Positions, Emergency Medical Dispatch and Operations, Call-Handling Quality Assurance, and Minimum Training Requirements.

- “Progress benchmarks” reflect the status of State efforts to implement advanced next generation 911 systems and capabilities. As titled, these data elements are largely implementation or deployment benchmarks against which progress can be measured, and include: Planning, Procurement, Transition, Operations, and Maturity Level.

Description of the Need for the Information and Proposed Use of the Information: To support NHTSA’s mission to save lives, the National 911 Program develops, collects, and disseminates information concerning practices, procedures, and technology used in the provision of 911 services; and to support 911 Public Safety Answering Points (PSAPs) and related State and local public safety agencies’ 911 technological and operational upgrades.

The technology impacting 911 services continues to evolve substantially. Both public and private sectors have increasingly focused on addressing the need to upgrade and enhance the technology utilized by 911

services across the Nation. In addition, it is essential that emergency responders are able to coordinate and collaborate with 911 agencies via comprehensive and seamless emergency communication systems as they update their own part of the emergency communications network. This information collection supports efforts to upgrade 911 services by providing up-to-date information to State and local public safety entities to allow them to adequately gauge progress toward implementing more current and advanced 911 systems in a comparative fashion. While the National 911 Program will benefit from this information, it is anticipated that the greatest benefit will accrue to the State and local public safety community faced with the challenge of migrating to the next generation of 911 services and technology as they strive to respond to emergencies.

The National 911 Profile Database is used to follow the progress of 911 authorities in enhancing their existing systems and implementing next-generation networks to more current functionality. The data in this national profile has been used and will continue to be used to accurately measure and depict the current status and capabilities of 911 systems across the United States, as well as progress made in implementing advanced technologies and operations—known as Next Generation (NG) 911. Assessments, based upon the data collected, will help draw attention to key roadblocks as well as solutions in NG911 implementation processes. Analysis of the data will also help target possible future activities and resources consistent with the goals of the program. The information collected will be available in aggregated form to national, Federal, State and local stakeholders in the public safety community. This information collection supports NHTSA’s mission to save lives, prevent injuries and reduce economic costs due to road traffic crashes by ensuring emergency responses to crashes of all nature (e.g. planes, trains, and automobiles) and maximizing the chances of survival for crash victims.

60-Day Notice

A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on April 19, 2021(86 FR 20431). No comments were received.

Affected Public: State 911 agency administrators.

Estimated Number of Respondents: 56.

Frequency: Annual.

Number of Responses: 56.

Estimated Total Annual Burden Hours: NHTSA estimates that submitting responses to the questions included in the proposed survey instrument utilizing the Web-based tool would require an average of 98 hours per State entity to collect, aggregate and submit. Estimating the maximum number of respondents at 56 (the fifty States, the District of Columbia, and five U.S. Territories), this would result in a total burden of 5,488 hours (98 hours × 56 respondents).

The total labor costs associated with the burden hours are estimated by finding the average hourly wage and multiplying by the number of burden hours. Respondents will be State, territory, and tribal government management personnel. To estimate reasonable staff expenses to respond to this information collection, the Agencies reviewed the Bureau of Labor Statistics (BLS) Occupational Outlook Handbook and determined that the Administrative Services Manager description closely aligns with the positions of recipient staff responsible for completing this request. BLS lists the average hourly wage as \$46.45.¹ Further, BLS estimates that State and local government wages represent 61.8% of total labor compensation costs.² Therefore, NHTSA estimates the hourly labor costs to be \$75.16 (46.45 ÷ 0.618). The total labor cost based on the estimated burden hours is estimated at \$412,478. The table below provides a summary of the estimated burden hours and the labor costs associated with those burden hours.

Number of respondents	Annual hours per respondent	Average hourly compensation	Estimated annual labor cost per respondent	Total estimated annual burden hours	Total estimated annual labor costs
56	98	\$75.16	\$7,365.68	5,488	\$412,478.08 or \$412,478.

¹ May 2019 National Occupational Employment and Wage Estimates by ownership, Federal, State, and local government, including government-

owned schools and hospitals and the U.S. Postal Service, at <https://www.bls.gov/oes/current/999001.htm#11-0000> (BLS code 11–3010).

² Table 1 at <https://www.bls.gov/news.release/ecec.t01.htm>.

Estimated Total Annual Burden Cost: There are no capital, start-up, or annual operation and maintenance costs involved in the collection of information. The respondents would not incur any reporting costs from the information collection beyond the labor costs associated with the burden hours to gather the information, prepare it for reporting and then populate the Web-based data collection tool. The respondents also would not incur any recordkeeping burden or recordkeeping costs from the information collection.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (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 respondents, including 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.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29.

Issued in Washington, DC.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2021-18251 Filed 8-24-21; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0178]

Agency Information Collection Activity: Monthly Certification of On-the-Job and Apprenticeship Training

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the revised collection of certain information

by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each revised collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before October 25, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at www.Regulations.gov or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to nancy.kessinger@va.gov. Please refer to "OMB Control No. 2900-0178" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266-4688 or email maribel.aponte@va.gov. Please refer to "OMB Control No. 2900-0178" in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 115-89 "Veterans Apprenticeship and Labor Opportunity Reform Act", 38 U.S.C. 3002(3)(C), 3032(c), 3233, 3313(g), 3484, 3534(a), 3680(c), 3687, and 10 U.S.C. 16131., 38 CFR 21.3131(a), 21.3132(c),

21.4135(e)(3)(iii), 21.4203(f)(3), 21.4262, 21.5130, 21.5138, 21.7139(g), and 21.7639(f), 21.9561(c), 21.9641(g).

Title: Monthly Certification of On-The-Job and Apprenticeship Training.

OMB Control Number: 2900-0178.

Type of Review: Revision of a currently approved collection.

Abstract: Benefits are authorized monthly based on the number of hours worked by the trainee as verified by the training establishment. Unscheduled terminations result in the termination of benefits. If hours are reduced to less than a full-time work schedule, a reduction of benefits will occur. Public Law 115-89 "Veterans Apprenticeship and Labor Opportunity Reform Act" (VALOR Act) was signed into law on November 21, 2017. Section 3 of this law amended 38 U.S.C. 3680(c) to eliminate the trainee's certification requirement. As a result, this form is only completed, signed, and certified by the training establishment to report the trainee's number of hours worked and/or to report the trainee's date of termination. The form no longer requires the signature of the trainee. The form is then sent to the Regional Processing Office (RPO) for processing.

Affected Public: Individuals and households.

Estimated Annual Burden: 214,794 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: Twelve (12) Annually per Respondent.

Estimated Number of Respondents: 107,397.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021-18275 Filed 8-24-21; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2, that a virtual meeting of the Advisory Committee on Disability Compensation (Committee) will begin and end as follows:

Date	Time
Tuesday, September 28, 2021	9:00 a.m.–12:00 p.m. (Eastern Standard Time).

The virtual meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities.

The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising during service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation.

The agenda will include review and discussion of the 2020 Biennial Report and report recommendation training.

No time will be allocated at this virtual meeting for receiving oral presentations from the public. The public may submit 1–2 page summaries of their written statements for the Committee’s review. Public comments may be received no later than September 14, 2021, for inclusion in the official meeting record. Please send these comments to Sian Roussel of the Veterans Benefits Administration, Compensation Service at sian.rousseau@va.gov.

Members of the public who wish to obtain a copy of the agenda should contact Sian Roussel at Sian.Roussel@va.gov and provide his/her name, professional affiliation, email address and phone number. The call-in number for those who would like to attend the meeting is 1–404–397–1596; access code: 199 738 1753.

Dated: August 20, 2021.

Jelessa M. Burney,
Federal Advisory Committee Management Officer.

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Vol. 86, No. 162

Wednesday, August 25, 2021

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Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202-741-6000**

Laws **741-6000**

Presidential Documents

Executive orders and proclamations **741-6000**

The United States Government Manual **741-6000**

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Electronic and on-line services (voice) **741-6020**

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FEDERAL REGISTER PAGES AND DATE, AUGUST

41381-41698.....	2
41699-41888.....	3
41889-42680.....	4
42681-43074.....	5
43075-43380.....	6
43381-43582.....	9
43583-43902.....	10
43903-44256.....	11
44257-44572.....	12
44573-44772.....	13
45621-45854.....	16
45855-46100.....	17
46101-46578.....	18
46579-46756.....	19
46757-46950.....	20
46951-47204.....	23
47205-47376.....	24
47377-47540.....	25

CFR PARTS AFFECTED DURING AUGUST

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR	959.....	42748
200.....	980.....	42748

3 CFR

Proclamations:	212.....	44593
10237.....	214.....	44593
10238.....	245.....	44593
Executive Orders:	274a.....	44593
14037.....		
14038.....		
14039.....		

Administrative Orders:

Memorandums:		
Memorandum of		
August 6, 2021.....	43587	

Memorandum of

August 17, 2021.....46759

Memorandum of

August 18, 2021.....46951

Notices:

Notice of August 6,

2021.....43901

Presidential

Determinations:

No. 2021-10 of August

10, 2021.....45619

No. 2021-11 of August

11, 2021.....46757

5 CFR

315.....	46103
316.....	46103
330.....	46103

Proposed Rules:

1630.....44642

6 CFR

5.....	44574
27.....	41889

7 CFR

205.....	41699
275.....	44575
407.....	42681

457.....45855

761.....43381

762.....43381

764.....43381

765.....43381

766.....43381

769.....43381

932.....44257

985.....44587

993.....44259

1470.....41702

Proposed Rules:

205.....47242

800.....46606

915.....44286, 47248

925.....44644

930.....44647

944.....44286

8 CFR

212.....	44593
214.....	44593
245.....	44593
274a.....	44593

Proposed Rules:

208.....	46906
212.....	47025
235.....	46906
1003.....	46906
1208.....	46906
1235.....	46906

9 CFR

92.....	45621
93.....	45621
94.....	45621
95.....	45621
98.....	45621
130.....	45621

10 CFR

Ch. I.....	43397, 47209
15.....	44594
52.....	44262
72.....	42681, 44262, 44594
170.....	44594
171.....	44594
431.....	46579

Proposed Rules:

20.....	45923
50.....	44290
51.....	47032
52.....	47251
72.....	42751, 44296, 44650
73.....	43599
429.....	43120
430.....	41759, 43429, 43970,
	44298, 46611, 46793
431.....	43430, 46330, 46793

11 CFR

Proposed Rules:

104.....	42753
109.....	42753

12 CFR

7.....	42686
1026.....	44267, 46953

Proposed Rules:

210.....	43143
330.....	41766
702.....	45824
703.....	45824
1282.....	47398

14 CFR

25.....	46958
39.....	42687, 42689, 42689,

42691, 42694, 42696, 42698, 42701, 43075, 43404, 43406, 43409, 43909, 44600, 45855, 45858, 46109, 46111, 46113, 46761, 46762, 46766, 46769, 46771, 46959, 47210, 47212, 47215	22 CFR Proposed Rules: 51.....43458	9.....46982 36.....46983 38.....43091, 47386 39.....43091, 47386	46 CFR 30.....42738 150.....42738 153.....42738 Proposed Rules: 540.....47441
71.....41702, 41704, 41705, 41707, 41708, 41709, 41712, 41894, 43411, 43589, 43911, 45630, 46774, 46961	25 CFR 150.....45631	39 CFR 111.....43415 121.....43941 Proposed Rules: 3050.....44676	47 CFR 1.....46995 9.....45982 10.....46783 11.....46783 20.....44635 54.....41408, 46995 73.....42742, 43470 Proposed Rules: 2.....46641, 46644 10.....46804 11.....46804 15.....46661 20.....44681 27.....44329 73.....41916, 43145 74.....43145
73.....44603	26 CFR 1.....42715, 42716	40 CFR 9.....45651, 46123, 46133 52.....41406, 41716, 42733, 43418, 43954, 43956, 43960, 43962, 44614, 44616, 45870, 45871, 46984, 46986, 47219, 47387, 47390, 47391, 47393 62.....46989 70.....47219 82.....46992 180.....41895, 43964, 44618, 44620, 44623, 45888, 46156 721.....45651, 46123, 46133	48 CFR Ch. I.....44228, 44255 2.....44229 7.....44229 10.....44229 11.....44229 12.....44229 19.....44233, 44247, 44249 39.....44229 42.....44249, 44255 52.....44233, 44249, 44255
97.....42704, 42708, 46774, 46776	27 CFR 9.....47377, 47380 Proposed Rules: 5.....47429	Proposed Rules: 950.....41907	49 CFR 1002.....44282 Proposed Rules: 171.....43844 172.....43844 173.....43844 175.....43844 176.....43844 178.....43844 180.....43844 371.....43814 375.....43814 391.....47278 571.....42762 575.....42762 578.....46811
250.....41381	28 CFR 2.....45860, 45861	30 CFR Proposed Rules: 950.....41907	50 CFR 17.....41742, 41743, 43102, 45685, 46536, 47221 18.....42982 20.....45909 224.....47022 226.....41668 300.....47238 622.....43117 635.....42743, 43118, 43420, 43421, 47395 660.....43967 665.....42744 679.....42746, 46792, 47240 Proposed Rules: 17.....41917, 43470, 47457 223.....41935 229.....43491 635.....43151
254.....41381	29 CFR Proposed Rules: 10.....41907 23.....41907	31 CFR Proposed Rules: 210.....46631	
382.....41382	30 CFR Proposed Rules: 950.....41907	32 CFR 117.....46597 269.....46599	
1204.....43412	31 CFR Proposed Rules: 210.....46631	33 CFR 100.....43087, 43913, 44273, 44606, 45644, 46115 117.....43914, 46966 127.....43915 154.....43915 156.....43915 165.....41402, 41404, 41713, 41715, 42716, 43089, 43091, 43413, 44275, 44608, 44610, 45647, 45648, 45650, 45862, 45864, 45866, 45868, 46117, 46601, 46603, 46779, 46781, 46968, 46970, 47217, 47382, 47484	
Proposed Rules: 39.....41410, 41786, 41788, 41791, 41794, 42754, 43437, 43440, 43443, 43446, 43449, 43451, 43454, 44314, 44316, 44319, 44321, 44324, 44652, 44655, 44657, 44660, 44663, 46160, 46162, 46164, 46167, 46626, 46629, 47033, 47036, 47038, 47041, 47252, 47255, 47258, 47260, 47264, 47417, 47419, 47420, 47422, 47424, 47427	32 CFR 117.....46597 269.....46599	Proposed Rules: 100.....41798, 41909 110.....45936 165.....42758, 44326, 45699, 46636, 47044, 47433 328.....41911	
71.....41412, 43144, 43456, 44668, 44670, 44671, 44674, 47043	33 CFR 100.....43087, 43913, 44273, 44606, 45644, 46115 117.....43914, 46966 127.....43915 154.....43915 156.....43915 165.....41402, 41404, 41713, 41715, 42716, 43089, 43091, 43413, 44275, 44608, 44610, 45647, 45648, 45650, 45862, 45864, 45866, 45868, 46117, 46601, 46603, 46779, 46781, 46968, 46970, 47217, 47382, 47484	Proposed Rules: 100.....41798, 41909 110.....45936 165.....42758, 44326, 45699, 46636, 47044, 47433 328.....41911	
139.....47266	15 CFR 740.....46590 742.....46590 743.....46590 748.....46590 758.....46590 774.....46590 922.....45860	34 CFR Ch. III.....42718 Ch. VI.....44277 674.....46972 682.....46972 685.....46972 Proposed Rules: Ch. VI.....43609	
17 CFR 249.....45631 241.....44604	18 CFR 4.....42710 5.....42710 153.....43077 157.....43077 284.....43590	37 CFR 201.....46119 203.....46119 221.....46119	
19 CFR Ch. I.....46963, 46964 Proposed Rules: 102.....42758 177.....42758	20 CFR 30.....46778 404.....41382	38 CFR 3.....42724	
21 CFR 201.....41383 801.....41383 1308.....44270 Proposed Rules: 73.....46803 1308.....43978			

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List August 9, 2021

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