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DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. USCBP–2021–0031]

Privacy Act of 1974: Implementation of Exemptions; U.S. Department of Homeland Security, U.S. Customs and Border Protection–002 Trusted and Registered Traveler Programs System of Records

AGENCY: U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The U.S. Department of Homeland Security (DHS) is issuing a final rule to amend its regulations to exempt portions of a newly updated and reissued system of records titled, ''DHS/U.S. Customs and Border Protection–002 Trusted and Registered Traveler Programs (TRTP) System of Records'' from certain provisions of the Privacy Act. Specifically, the Department exempts portions of this system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: This final rule is effective September 10, 2021.

FOR FURTHER INFORMATION CONTACT: For general questions please contact: Debra Danisek, *Privacy.CBP@cbp.dhs.gov,* (202) 344–1610, CBP Privacy Officer, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. For privacy issues please contact: Lynn Parker Dupree, (202) 343–1717, Chief Privacy Officer, Privacy Office, U.S. Department of Homeland Security, Washington, DC 20528.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Department of Homeland Security (DHS) U.S. Customs and Border Protection (CBP) published a notice of proposed rulemaking in the **Federal Register**, 85 FR 14176 (March 11, 2020), proposing to exempt portions of the system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. DHS issued the ''DHS/CBP–002 Trusted and Registered Traveler Programs System of Records'' in the **Federal Register** at 85 FR 14214 (March 11, 2020), to provide notice to the public that (1) DHS/CBP updated the name of the system of records from Global Enrollment System (GES); (2) DHS/CBP provided a more comprehensive description of the trusted and registered traveler programs to include Global Entry, NEXUS, Secure Electronic Network for Travelers Rapid Inspection (SENTRI), Free and Secure Trade (FAST) program, and U.S.-Asia Economic Cooperation (APEC) Business Travel Card (ABTC) Program; and (3) DHS/CBP removed references to CBP Trusted Worker Programs which are covered by the DHS/CBP–010 Persons Engaged in International Trade in Customs and Border Protection Licensed/Regulated Activities System of Records Notice, 73 FR 77753 (December 19, 2008).

DHS/CBP invited comments on both the notice of proposed rulemaking (NPRM) and System of Records Notice (SORN).

II. Public Comments

DHS received no comments on the NPRM and one non-substantive comment on the SORN. After full consideration of the public comment, the Department will implement the rulemaking as proposed.

List of Subjects in 6 CFR Part 5

Freedom of information, Privacy.

For the reasons stated in the preamble, DHS amends chapter I of title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

■ 1. The authority citation for part 5 continues to read as follows:

Authority: 6 U.S.C. 101 *et seq.;* Pub. L. 107–296, 116 Stat. 2135; 5 U.S.C. 301.

Subpart A also issued under 5 U.S.C. 552.

Subpart B also issued under 5 U.S.C. 552a.

■ 2. Amend appendix C to part 5 by adding paragraph 84 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

84. The U.S. Department of Homeland Security (DHS)/U.S. Customs and Border Protection (CBP)-002 Trusted and Registered Traveler Program (TRTP) System of Records consists of electronic and paper records and will be used by DHS and its components. The DHS/CBP–002 TRTP System of Records collects and maintains records on individuals who voluntarily provide personally identifiable information to U.S. Customs and Border Protection in return for enrollment in a program that will make them eligible for dedicated CBP processing at designated U.S. border ports of entry and foreign preclearance facilities. The DHS/CBP–002 TRTP system of records contains personally identifiable information in biographic application data, biometric information, conveyance information, pointer information to other law enforcement databases that support the DHS/CBP membership decision, Law Enforcement risk assessment worksheets, payment tracking numbers, and U.S. or foreign trusted traveler membership decisions in the form of a ''pass/fail.''

The Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2), has exempted this system from the following provisions of the Privacy Act: 552a(c)(3), (c)(4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8); (f); and (g)(1). Additionally, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(k)(2), has exempted records created during the background check and vetting process from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f).

Also, the Privacy Act requires DHS maintain an accounting of such disclosures made pursuant to all routine uses. However, disclosing the fact that CBP has disclosed records to an external law enforcement and/or intelligence agency may affect ongoing law enforcement, intelligence, or national security activity. As such, the Secretary of Homeland Security, pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) has exempted these records from (c)(3), (e)(8), and (g)(1) of the Privacy Act, as is necessary and appropriate to protect this information.

In addition, when a record received from another system has been exempted in that source system under 5 U.S.C. 552a(j)(2), DHS will claim the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

Finally, in its discretion, CBP will not assert any exemptions with regard to accessing or amending an individual's application data in a trusted or registered traveler program or accessing their final membership determination in the trusted or registered traveler programs.

Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process. When an investigation has been completed, information on disclosures made may continue to be exempted if the fact that an investigation occurred remains sensitive after completion.

(b) From subsection (d) (Access and Amendment to Records) because access to certain records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of that investigation and reveal investigative interest on the part of DHS or another agency. Access to certain records could also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of certain records could interfere with ongoing investigations and law enforcement activities. Further, permitting amendment to counterintelligence records after an investigation has been completed would impose an unmanageable administrative burden. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of federal law, the accuracy of information obtained or introduced occasionally may be unclear, or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of the investigation, thereby interfering with that investigation and related law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information could impede law enforcement by compromising the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G), (e)(4)(H), and (e)(4)(I) (Agency Requirements) and (f) (Agency Rules), because portions of this system are exempt from the individual access provisions of subsection (d) for the reasons noted above, and therefore DHS is not required to establish requirements, rules, or procedures with respect to such access. Providing notice to individuals with respect to existence of records pertaining to them in the system of records or otherwise setting up procedures pursuant to which individuals may access and view records pertaining to themselves in the system would undermine investigative efforts and reveal the identities of witnesses, and potential witnesses, and confidential informants.

(g) From subsection (e)(5) (Collection of Information) because with the collection of information for law enforcement purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS's ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g)(1) (Civil Remedies) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Lynn Parker Dupree,

Chief Privacy Officer, U.S. Department of Homeland Security.

[FR Doc. 2021–19472 Filed 9–9–21; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1735 and 1737

[RUS–20–TELECOM–0044]

RIN 0572–AC48

Implementation of Telecommunications Provisions of the Agricultural Improvement Act of 2018

AGENCY: Rural Utilities Service, Department of Agriculture (USDA).

ACTION: Final rule; request for comments.

SUMMARY: The Rural Utilities Service (RUS) is issuing a final rule with comment to implement statutory provisions of the Agriculture Improvement Act of 2018 (2018 Farm Bill). The intent of this rule is to modify existing regulations to include the statutory revisions authorized by the 2018 Farm Bill.

DATES:

Effective date: This final rule with comment is effective September 10, 2021.

Comment date: Comments due on or before November 9, 2021.

ADDRESSES: You may submit comments, identified by docket number RUS–20–TELECOM–0044 and Regulatory Information Number (RIN) number 0572–AC48 through *https://www.regulations.gov*.

Instructions: All submissions received must include the Agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: For general inquiries, contact Laurel Leverrier, Assistant Administrator Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture (USDA), email: *laurel.leverrier@usda.gov,* telephone: (202) 720–9556.

SUPPLEMENTARY INFORMATION:

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches to maximize net benefits (including potential economic, environmental, public health, and safety advantages; distributive impacts; and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. In accordance with Executive Order 12866, the Agency conducted a Regulatory Impact Analysis, outlining the costs and benefits of implementing this program in rural America. The complete analysis is available in Docket No. RUS–20–TELECOM–0044. The following is a summary discussion of the Analysis:

This final rule does not directly address any specific market failure. The Agency is publishing this rulemaking action to codify the mandatory changes

outlined in the 2018 Farm Bill. Many of the benefits provided by these mandatory changes include:

(1) Providing new information regarding grant eligibility in conjunction with the Farm Bill Broadband Program covered under 7 CFR part 1738;

(2) General language clarifications and duplication removals;

(3) Providing information for, or the removals of, specific service requirements;

(4) Changes in program financing thresholds to conform to the 2018 Farm Bill requirements;

(5) Additional application information to ensure criteria are met;

(6) New reporting requirements that ensure similar data is reported and collected across multiple USDA broadband programs to improve oversight and integrity; and

(7) Changes in language to ensure that programs can meet funding deadlines while still maintaining the integrity of the environmental review process.

These changes are expected to result in great transparency from the Agency and increased financing opportunities for providers of rural telecommunications services. Telecommunications services are having a profound effect on the Nation's economy, its strength and its growth by reducing the barriers of distance, remoteness, and time.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs has designated this rule as not being a major rule, as defined by 5 U.S.C. 804(2).

Executive Order 12988, Civil Justice Reform

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Agency has determined that this rule meets the applicable standards provided in section 3 of the Executive order. In addition, all state and local laws and regulations that conflict with this rule will be preempted. No retroactive effect will be given to this rule.

Executive Order 12372, Intergovernmental Consultation

This final rule has been excluded from the scope of Executive Order 12372 (Intergovernmental Consultation), which may require a consultation with state and local officials. *See* ''Department Programs and Activities Excluded from Executive Order 12372,'' 50 FR 47034 (Nov. 14, 1985).

Administrative Procedures Act

The Administrative Procedures Act (APA) exempts from notice and comment requirements rules ''relating to agency management or personnel or to public property, loans, grants, benefits, or contracts'' (5 U.S.C.553(a)(2)). The Rural Telecommunications Program provides loans to borrowers at interest rates and on terms that are more favorable than those generally available from the private sector. RUS borrowers, as a result of obtaining Federal financing, receive economic benefits under the loan program. Based on this, any changes to the program fall under this exemption.

Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (5 U.S.C. 601–602) (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the APA or any other statute. As outlined above, this rule is not subject to the APA under 5 U.S.C. 553(a)(2).

Environmental Impact Statement

This final rule has been reviewed in accordance with 7 CFR part 1970 (''Environmental Policies and Procedures''). The Agency has determined that (i) this action meets the criteria established in 7 CFR 1970.53(f); (2) no extraordinary circumstances exist; and (iii) the action is not ''connected'' to other actions with potentially significant impacts, is not considered a ''cumulative action'' and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) number assigned to the Telecommunications Infrastructure Loans & Guarantees Program is 10.851. The Catalog is available on the internet at *https://beta.sam.gov/*. The Government Publishing Office (GPO) prints and sells the CFDA to interested buyers. For information about purchasing the Catalog of Federal Domestic Assistance from GPO, call the Superintendent of Documents at (202) 512–1800 or toll free at (866) 512–1800, or access GPO's online bookstore at *https://bookstore.gpo.gov*.

Unfunded Mandates

This rule contains no federal mandates (under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995) for state, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandates Reform Act of 1995.

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act of 2002, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Executive Order 13132, Federalism

The policies contained in this rule do not have any substantial direct effect on 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. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This rule has been reviewed in accordance with the requirements of Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects 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.

Broadband programs in general have a significant impact on Tribes. These specific statutory provisions, however, were predominantly mandatory, leaving very few areas for discretion for Tribal consultation and guidance. The primary areas of discretion were: (1) Removing guarantee fee language, (2) correcting a citation, (3) removing obsolete year 2000 compliance information and (4) removing a duplicative refinancing section.

USDA has held a series of Tribal consultations conducted by USDA Rural Development and USDA Office of Tribal

Relations regarding tribal broadband. The consultations included consultations on (1) tribal broadband specifically (both at the national level and numerous regional and state level tribal consultations), (2) the USDA ReConnect broadband program, (3) participation with Department of Commerce NTIA on the Tribal Broadband Connectivity Program, and on (4) Executive Order 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government'' (1/20/21). Through these consultations, the USDA compiled the following Tribal government requested ''Tribal Broadband Principles'' which were considered and used where applicable in drafting this regulation:

- Require Tribal resolution. Require any new or legacy applicant for USDA funds proposing to serve Tribal lands to have a Tribal resolution of support to qualify for eligibility.
- Increase flexibility. Read any ambiguous statutory requirements and limitations as broadly as possible and in favor of Tribes in light of our trust obligations.
- Narrow duplication definition. Read ''duplication'' limitations as broadly and as flexibly as possible when working with Tribal nations to ensure their eligibility for USDA programs to serve their own lands.
- All self-certification. Tribal nations must be the certifiers of whether they are being served/are underserved or other similar requirements.
- Enforce compliance with Tribal laws. Include a requirement of compliance with Tribal laws and regulations in the sections of loan and grant agreements that require compliance with state and local laws. Enforce the terms of Federal loan and grant agreements which require compliance with local (including tribal) laws and regulatory bodies.

Civil Rights Impact Analysis

The Rural Development's Civil Rights Office reviewed this rule in accordance with USDA Regulation 4300–4, ''Civil Rights Impact Analysis,'' to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, or disability. The Rural Development's Civil Rights Office worked with the RUS program offices to compile program descriptions, data, and outreach activities strategies for the subject program. The Rural Development's Civil Rights Office assessed civil rights implications and impacts of eligibility criteria, methods of administration, and other requirements associated with the final rule including strategies to eliminate, alleviate, or mitigate (where applicable) civil rights impacts identified in the Civil Rights Impact Analysis. The Rural Development's Civil Rights Office agrees to monitor the implementation of all civil rights strategies that were instituted in connection with this final rule, evaluate their effectiveness, and take follow-up action where civil rights impacts may ensue.

Information Collection and Recordkeeping Requirements

The Information Collection and Recordkeeping requirements contained in this rule have been approved under OMB Control Number 0572–0079 and submitted for approval under OMB Control Number 0572–0154.

Background

Rural Development is a mission area within the USDA comprising the Rural Utilities Service, Rural Housing Service, and Rural Business/Cooperative Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. Rural Development meets its mission by providing loans, loan guarantees, grants, and technical assistance through more than 40 programs aimed at creating and improving housing, business, and infrastructure throughout rural America.

The Agricultural Improvement Act of 2018 (2018 Farm Bill) made mandatory changes to the Rural Telephone Loan Program administered by the Telecommunications Program of the Rural Utilities Service.

These modifications to the program's regulations will allow RUS to fully implement the requirements of the 2018 Farm Bill. RUS is also taking the opportunity to make minor changes to the program regulations that will update or correct existing regulatory citations, data speeds, and other program provisions to bring them in line with the statutory changes required by the 2018 Farm Bill.

Changes to 7 CFR part 1735 ''General Policies, Types of Loans, Loan Requirements—Telecommunications Program'' include:

Adding paragraph (d) to § 1735.1. The addition of paragraph (d) provides notice to applicants that they may be eligible to receive grant assistance through Title VI which is governed by 7 CFR part 1738. The Agency determined this was the most effective way to provide this information.

The addition of a definition of Retail Broadband Service to § 1735.2. The definition provides information to the public on what the Agency considers ''retail broadband service'' for the purposes of this part.

Clarifying, at § 1735.10(a)(2)(ii), that multiuse networks that provide critical transportation-related services are considered integrated interoperable emergency communications and therefore are an eligible loan purpose.

Removing the requirement for a certificate of convenience and necessity from § 1735.12. While necessary when the program was implemented, the prevalence of services at this time and changes to state regulatory bodies has rendered the certificate meaningless for Agency purposes. The Agency also expanded the authority of the RUS Administrator, at § 1735.12(a), to determine non-duplication of services. Previously the Administrator only made that determination for states in which there was no regulatory body. This change will reduce the burden on applicants and aid in streamlining the application process. Clarification regarding non-duplication verification for existing borrowers is provided by the Agency, at § 1735.12(b).

Modifying the criteria at § 1735.12(c) to remove specific transmission and reception rates and require coverage as described in § 1735.11 for local area exchanges. These changes remove outdated terminology, create a single requirement which reduces confusion and creates consistency for all applicants.

Changing the thresholds, at § 1735.21, regarding refinancing to conform to 2018 Farm Bill requirements. Prior to the 2018 Farm Bill, the Agency was only able to refinance non-RUS loans as long as no more than 40 percent of the new loan was used for refinancing. The 2018 Farm Bill removed the 40 percent cap and extended the ability to refinance 100 percent of non-RUS and RUS debt. Refinancing limits will be published in the funding opportunity announcement opening an application window and based on amounts that are authorized for a given fiscal year. However, the Agency is considering limiting refinancing of non-RUS loans to 50 percent of the total loan amount while allowing 100 percent refinancing of existing RUS loans. Additional information was added to this section to provide information on loans eligible for refinancing as well as maximum amortizations.

Modifications to § 1735.22(f), (g), and (i) to remove outdated references to year 2000 compliant systems and correct an incorrect reference that was carried forward from a previous version of the regulation, respectively.

The addition of public notice filing and response requirements at § 1735.23. The notice will allow existing service providers to respond to pending applications before the agency that propose to provide broadband service outside of their territory that receives federal universal support.

New reporting requirements at § 1735.24. These new requirements ensure similar data is reported and collected across multiple USDA broadband programs to improve oversight and integrity.

Removal of refinancing language at § 1735.52 that is now duplicative due to the changes at § 1735.21.

Changes to 7 CFR part 1737, ''Pre-Loan Policies and Procedures Common to Insured and Guaranteed Telecommunications Loans'' include multiple changes to § 1737.22 to include the removal of the requirement for a certified copy of a certificate of convenience and necessity as that certificate is no longer required due to changes implemented by the 2018 Farm Bill.

Additional application information was added to § 1737.22(c) and (e) for loans involving refinancing. This additional information is necessary to ensure that the loans to be refinanced meet the criteria set forth in this regulation and the funding opportunity announcement that opens a funding window.

Changes at § 1737.90 to include language allowing obligation but not disbursal of funds, under certain circumstances, prior to the completion of historical or other types of review identified during the environmental review. This change allows for obligation of funds so awardees know that funds will be available while still maintaining the integrity of the environmental review process.

Amendments and Comparison to the Current Regulation

The Telecommunications Program and the organizations that apply for its funding face significant challenges putting in place projects that can deliver and maintain robust, affordable telecommunication services to rural consumers. These challenges include rapidly evolving technology, competition, and the ever-present higher costs of serving rural areas. The final rule will implement statutory changes required by the 2018 Farm Bill, as well as minor conforming changes that will update and/or correct existing regulatory citations, data speeds and other program provisions to ensure they are in line with the required statutory changes. The changes are expected to create greater program transparency and ensure program rules are clear and consistent.

Table 1 below shows which sections of the regulations were changed due to the statutory authority contained in the 2018 Farm Bill and those changes where RUS is exercising discretion to improve program clarity. If the sections of the regulations are not specifically stated within the table, no changes were made to those sections.

TABLE 1—STATUTORY AND DISCRETIONARY CHANGES TO THE REGULATIONS

Section of regulation	Revision	2018 Farm Bill requirement	Discretionary
7 CFR Part 1735—General Policies, Types of Loans, Loan Requirements—Telecommunications Program			
§ 1735.1 General Statement	Paragraph that entities applying under this part could be eligible for grant funds under 7 CFR 1738.101 added.	X	
§ 1735.2 Definitions	Retail Broadband service definition added	X	
§ 1735.10 General	Updated terminology for 911 service added	X	
	Language on guaranteed fees removed		X
§ 1735.12 Nonduplication	Certificate of Convenience and Necessity requirement was removed	X	
	Outdated broadband speeds were removed	X	
§ 1735.21 Refinancing Loans	Updated with new RUS refinancing authorities	X	
§ 1735.22 Loan Security	''Year 2000'' system compliance language was removed		X
	Paragraph citation errors corrected		X
§ 1735.23 Public Notice	New public notice requirements and timeframe added	X	
§ 1735.24 Additional Reporting Requirements.	New reporting requirements and policies added	X	
§ 1735.51 Required Findings	Certificate of Convenience and Necessity requirement removed	X	
§ 1735.52 Findings Required for Particular Loan Purposes.	Duplicative refinancing language removed		X
7 CFR Part 1737—Pre-Loan Policies and Procedures Common to Insured and Guaranteed Telecommunications Loans			
§ 1737.22 Supplemental Information.	Certificate of Convenience and Necessity requirement removed	X	
	Refinancing requirements updated	X	
	Public Notice requirements added	X	
§ 1737.90 Loan Approval Requirements.	Language added to allow obligations prior to environmental reviews being complete if related to specific broadband equipment.	X	

List of Subjects

7 CFR Part 1735

Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

7 CFR Part 1737

Loan programs-communications, Reporting and recordkeeping requirements, Rural areas, Telephone.

For reasons set forth in the preamble, 7 CFR parts 1735 and 1737 are amended as follows:

PART 1735—GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS—TELECOMMUNICATIONS PROGRAM

■ 1. The authority citation for part 1735 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq.,* and 6941 *et seq.*

Subpart A—General

■ 2. Amend § 1735.1 by adding paragraph (d) to read as follows:

§ 1735.1 General statement.

* * * * *

(d) Entities applying for a loan under this part may be eligible to receive a grant under 7 CFR 1738.101, for a portion of the project providing retail broadband service.

■ 3. Amend § 1735.2 by adding, in alphabetical order, the definition of ''Retail broadband service'' to read as follows:

§ 1735.2 Definitions.

* * * * *

Retail broadband service means any technology identified by the Administrator as having the capacity to provide transmission facilities that enable the subscriber to receive a minimum level of service equal to at least a downstream transmission capacity of 25 megabits per second (Mbps) and an upstream transmission capacity of 3 Mbps. The agency may change the minimum transmission capacity by way of notice in the **Federal Register**. The minimum transmission capacity may be higher than 25 Mbps downstream and 3 Mbps upstream but cannot be lower.

* * * * *

Subpart B—Loan Purposes and Basic Policies

■ 4. Amend § 1735.10 by:
■ a. Revising paragraph (a)(2)(ii);
■ b. Removing paragraph (e); and
■ c. Redesignating paragraphs (f) and (g) as paragraphs (e) and (f), respectively.

The revision reads as follows:

§ 1735.10 General.

(a) * * *

(2) * * *

(ii) Integrated interoperable emergency communications, including multiuse networks that provide critical transportation-related information services in addition to emergency communications services;

* * * * *

■ 5. Amend § 1735.12 by:
■ a. Revising paragraph (a) and (b);
■ b. Removing paragraphs (c)(2) and (3);
■ c. Redesignating paragraphs (c)(4) through (12) as paragraphs (c)(2) through (10), respectively; and
■ d. Revising newly redesignated paragraph (c)(5).

The revisions read as follows:

§ 1735.12 Nonduplication.

(a) A loan will not be made unless the Administrator determines that no duplication of lines, facilities, or systems already providing reasonably adequate services shall result from such a loan.

(b) Existing borrowers that apply to upgrade existing facilities in their existing service area are exempt from the non-duplication requirement in paragraph (a) of this section.

(c) * * *

(5) The LEC's network is capable of providing retail broadband service as defined in § 1735.2 to any subscriber location.

* * * * *

■ 6. Revise § 1735.21 to read as follows:

§ 1735.21 Refinancing loans.

(a) Any new direct or guaranteed loan authority provided under the RE Act may be used to refinance an outstanding obligation of the applicant on another loan made under Titles II and VI of the RE Act, or on a non-RUS loan if that loan would have been for eligible telecommunications purposes under the RE Act provided that:

(1) The applicant is current with its payments on the RUS loan(s) to be refinanced; and

(2) The amortization period for that portion of the loan request that will be needed for refinancing will not exceed the remaining amortization period for the loan(s) to be refinanced. If multiple notes are being refinanced, an average remaining amortization period will be calculated based on the weighted dollar average of the notes being refinanced.

(b) The amount that can be refinanced will be included in the funding opportunity announcement that will open a funding window based on the funds authorized for any given fiscal year.

■ 7. Amend § 1735.22 by revising paragraphs (f), (g), and (i) to read as follows:

§ 1735.22 Loan security.

* * * * *

(f) RUS makes loans only if the borrower's entire system, including the facilities to be constructed with the proceeds of the loan, is economically feasible, as determined by RUS.

(g) For purposes of determining compliance with TIER requirements, unless a borrower whose existing mortgage contains TIER maintenance requirements notifies RUS in writing differently, RUS will apply the requirements described in paragraph (h) of this section to the borrower regardless of the provisions of the borrower's existing mortgage.

* * * * *

(i) Nothing in this section shall affect any rights of supplemental lenders under the RUS mortgage, or other creditors of the borrower, to limit a borrower's TIER requirement to a level above that established in paragraph (h) of this section.

* * * * *

■ 8. Add § 1735.23 to read as follows:

§ 1735.23 Public notice.

(a) Applications for funding request in which the applicant will provide retail broadband service, the Agency's mapping tool will include the following information from each application, and will be displayed for the public:

(1) The identity of the applicant;

(2) A description of the project that can deliver retail broadband service;

(3) A map of the areas to be served, the proposed funded service area (PFSA), including identification of the associated census blocks;

(4) The amount and type of funding requested;

(5) The status of the application; and

(6) The estimated number and proportion of households and businesses in the proposed funded service area without fixed retail broadband service, whether terrestrial or wireless, excluding mobile and satellite service.

(b) For funding requests outside an area where the applicant receives Federal universal service support, the public notice filing referenced under paragraph (a) of this section will accept public notice responses from existing service providers with respect to retail broadband service already being provided in the PFSA for 45 calendar days on the Agency's web page. Existing service providers are requested to submit the following information through the Agency's mapping tool:

(1) The number of residential and business customers within the PFSA currently purchasing broadband at the minimum threshold, the rates of data transmission being offered, and the cost of each level of broadband service charged by the existing service provider;

(2) The number of residential and business customers within the applicant's service area receiving voice and video services and the associated rates for these other services;

(3) A map showing where the existing service provider's services coincide with the applicant's service area using the Agency's mapping tool; and

(4) Test results for the service area in question for a minimum of at least the

prior three months demonstrating that the asserted level of broadband is being provided. The test results shall be for different times of the day.

(c) The Agency may contact service providers that respond under paragraph (b) of this section to validate their submission, and so responding service providers should be prepared to:

(1) Provide additional information supporting that the area in question has sufficient access to broadband service;

(2) Have a technician on site during the field validation by RUS staff;

(3) Run on site tests with RUS personnel being present, if requested; and

(4) Provide copies of any test results that have been conducted in the last six months and validate the information submitted in the public notice response months.

(d) If no broadband service provider submits information pursuant to a pending application or if the existing provider does not provide the information requested under paragraphs (b) and (c) of this section, RUS will consider the extent of broadband service using any other data available through reasonable efforts, including utilizing the National Telecommunications and Information Administration's National Broadband Availability Map and the Federal Communications Commission broadband availability map. That may include the agency conducting field validations so as to locate facilities in the application service area and determine, to the extent possible, if those facilities can provide the minimum threshold of broadband. Notwithstanding, conclusive evidence as to the existence of the level of broadband will be taken only through the public notice process. As a result, the Agency highly recommends that existing service providers in a PFSA submit public notice response to ensure that their service is considered in the determination of eligibility on an application.

(e) The Agency will notify respondents who are existing service providers whether their public notice response was accepted or not and allow for an opportunity to respond.

(f) The information submitted by an existing service provider under paragraphs (b) and (c) of this section will be treated as proprietary and confidential and not subject to disclosure, pursuant to 7 U.S.C. 950cc(b)(3).

(g) For all applications that are approved, the following information will be made available to the public:

(1) The information provided in paragraph (a) of this section;

(2) Each annual report required under § 1735.24 will be redacted to protect any proprietary information; and

(3) Such other information as the Administrator of the RUS deems sufficient to allow the public to understand the assistance provided.

■ 9. Add § 1735.24 to read as follows:

§ 1735.24 Additional reporting requirements.

(a) Entities receiving financial assistance from RUS that are used for retail broadband must submit annual reports for 3 years after project completion. The reports must include the following information:

(1) The purpose of the financing, including new equipment and capacity enhancements that support high-speed broadband access for educational institutions, health care providers, and public safety service providers (including the estimated number of end users who are currently using or forecasted to use the new or upgraded infrastructure); and

(2) The progress towards fulfilling the objectives for which the assistance was made, including:

(i) The number of service points that will receive new broadband service, existing network improvements, and facility upgrades resulting from the federal assistance;

(ii) The speed of the broadband services;

(iii) The average price of the most subscribed tier of retail broadband service in each PFSA;

(iv) The number of new subscribers generated from the project; and

(v) Complete, reliable, and precise geolocation information that indicates the location of new broadband service that is being provided or upgraded within the service territory supported by the grant, loan, or loan guarantee.

(b) A notice will be published on the Agency's website that will include each annual broadband improvement report, redacted as appropriate to protect any proprietary information in the report.

Subpart E—Basic Requirements for Loan Approval

■ 10. Amend § 1735.51 by revising paragraph (c) to read as follows:

§ 1735.51 Required findings.

* * * * *

(c) *Nonduplication or certificate requirement.* The borrower shall provide RUS with satisfactory evidence to enable the Administrator to determine that no duplication of telephone service shall result from a particular loan.

§ 1735.52 [Amended]

■ 11. Amend § 1735.52 by removing paragraph (a) and removing the paragraph (b) designation and heading.

PART 1737—PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED TELECOMMUNICATIONS LOANS

■ 12. The authority citation for part 1737 continues to read as follows:

Authority: 7 U.S.C. 901 *et seq.,* 1921 *et seq.;* Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et. seq.*).

Subpart C—The Loan Application

■ 13. Amend § 1737.22 by:

■ a. Removing paragraph (a)(13);

■ b. Redesignating paragraphs (a)(14) through (20) as paragraphs (a)(13) through (19), respectively;

■ c. Designating the text of newly redesignated paragraph (a)(19) as paragraph (a)(19)(i);

■ d. Designating the undesignated paragraph following newly designated paragraph (a)(19)(i) as paragraph (a)(19)(ii);

■ e. In newly designated paragraph (a)(19)(ii), removing ''(a)(19)'' and adding ''(a)(18)'' in its place;

■ f. Revising paragraphs (b) introductory text, (c) introductory text, and (c)(3);

■ g. Redesignating paragraph (d) as paragraph (e); and

■ h. Adding a new paragraph (d) and paragraph (f).

The revisions and additions read as follows:

§ 1737.22 Supplementary information.

* * * * *

(b) The following must be submitted by borrowers seeking subsequent loans:

* * * * *

(c) For borrowers requesting funds for construction or refinancing, in addition to the information included in paragraphs (a) and (b) of this section, the following must be submitted:

* * * * *

(3) Justification for refinancing and evidence that the underlying loan to be refinanced would have been eligible for RUS financing under the RE Act.

(d) Loan requests whose sole purpose is to refinance loans under Titles II and VI of the RE Act must submit the following:

(1) Certified financial statements for the last 3 years.

(2) Five-year financial projections consisting of Income Statement, Balance Sheet, and Cash Flow Statement.

(3) A ''Certification Regarding Lobbying'' for loans, or a ''Statement for Loan Guarantees and Loan Insurance''

for loan guarantees, and when required, an executed Standard Form LLL, ''Disclosure of Lobbying Activities,'' (see section 319, Pub. L. 101–121 (31 U.S.C. 1352)).

(4) Executed copy of Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''

(5) Borrower's determination of loan maturity.

(6) A statement that the borrower is or is not delinquent on any Federal debt, such as income tax obligations or a loan or loan guarantee from another Federal agency. If delinquent, the reasons for the delinquency must be explained and RUS will take such explanation into consideration in deciding whether to approve the loan. RUS Form 490, ''Application for Telephone Loan or Guarantee,'' contains a section for providing the required statement and any appropriate explanation.

(7) Any other supporting data required by the Administrator.

* * * * *

(f) For all applications that request funding for retail broadband as defined in 7 CFR 1735.2, the application must include all information required for the public notice as stated in 7 CFR 1735.23(a).

* * * * *

Subpart J—Final Loan Approval Procedures

■ 14. Amend § 1737.90 by revising paragraph (a)(6) to read as follows:

§ 1737.90 Loan approval requirements.

(a) * * *

(6) All environmental review requirements must be met in accordance with 7 CFR part 1970. The Agency may obligate, but not disperse, funds under the program pursuant to 7 U.S.C. 950cc–1, before the completion of the otherwise required environmental, historical, or other types of reviews if the Secretary of Agriculture determines that subsequent site-specific review shall be adequate and easily accomplished for the location of towers, poles, or other broadband facilities in the service area of the awardee without compromising the project or the required reviews.

* * * * *

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2021–19319 Filed 9–9–21; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0780; Project Identifier AD–2021–00916–E; Amendment 39–21728; AD 2021–19–10]

RIN 2120–AA64

Airworthiness Directives; International Aero Engines, LLC Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain International Aero Engines, LLC (IAE) PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, and PW1133G–JM model turbofan engines. This AD was prompted by a root cause analysis of an event involving an uncontained failure of a high-pressure turbine (HPT) disk that resulted in high-energy debris penetrating the engine cowling on an Airbus Model A321–231 airplane, powered by IAE V2533–A5 model turbofan engines. This AD requires removing certain HPT 1st-stage and HPT 2nd-stage disks from service. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective September 27, 2021.

The FAA must receive comments on this AD by October 25, 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.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0780; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for the Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7229; fax: (781) 238–7199; email: *Mark.Taylor@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On March 18, 2020, an Airbus Model A321–231 airplane, powered by IAE V2533–A5 model turbofan engines, experienced an uncontained HPT 1st-stage disk failure that resulted in high-energy debris penetrating the engine cowling. Based on a preliminary analysis of this event, on March 21, 2020, the FAA issued Emergency AD 2020–07–51 (followed by publication in the **Federal Register** on April 13, 2020, as a Final Rule, Request for Comments (85 FR 20402)), which requires the removal from service of certain HPT 1st-stage disks installed on IAE V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 model turbofan engines.

Pratt & Whitney (PW) determined that the failure of the V2533–A5 model turbofan engine was due to an undetected subsurface material defect in an HPT disk that may affect the life of the part. In June 2021, PW expanded its root cause analysis to include a review of records for all other IAE and PW engines that contain parts of similar material.

On July 29, 2021, PW provided its PW1100G analysis results to the FAA. PW's analysis identified a different population of HPT 1st-stage and HPT 2nd-stage disks installed on IAE PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, and PW1133G–JM model turbofan engines that are also affected by the unsafe condition in AD 2020–07–51 and require removal from service. This condition, if not addressed, could result in uncontained HPT disk failure, release of high-energy debris, damage to the engine, damage to the airplane, and loss of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

FAA's Determination

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires the removal from service of certain HPT 1st-stage and HPT 2nd-stage disks installed on PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, and PW1133G–JM model turbofan engines.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule. PW determined that the failure of the V2533–A5 model turbofan engine was due to an undetected subsurface material defect in an HPT disk that may affect the life of the part. Based on the follow-on analysis performed since that event, PW has identified a different population of affected HPT 1st-stage and HPT 2nd-stage disks installed on IAE PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, and PW1133G–JM model turbofan engines that are affected by the same unsafe condition as contained in AD 2020–07–51 and require removal from service. These HPT disks have the highest risk of failure and require removal within 30 days after the effective date of this AD to prevent additional HPT disk failures and maintain an acceptable level of safety. This unsafe condition may result in loss of the airplane. The FAA considers removal of certain HPT 1st-stage and HPT 2nd-stage disks to be an urgent safety issue. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0780 and Project Identifier AD–2021–00916–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 3 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove HPT 1st-stage or HPT 2nd-stage disk.	94 work-hours × $85 per hour = $7,990	$171,430	$179,420	$538,260

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–19–10 International Aero Engines, LLC: Amendment 39–21728; Docket No. FAA–2021–0780; Project Identifier AD–2021–00916–E.

(a) Effective Date

This airworthiness directive (AD) is effective September 27, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to International Aero Engines, LLC (IAE) PW1122G–JM, PW1124G1–JM, PW1124G–JM, PW1127G1–JM, PW1127GA–JM, PW1127G–JM, PW1129G–JM, PW1130G–JM, PW1133GA–JM, and PW1133G–JM model turbofan engines with an installed:

(1) High-pressure turbine (HPT) 1st-stage disk, part number (P/N) 30G6201 or 30G7301, with a serial number (S/N) listed in Figure 1 to paragraph (c) of this AD; or

(2) HPT 2nd-stage disk, P/N 30G5502 or 30G6602, with an S/N listed in Figure 2 to paragraph (c) of this AD.

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Figure 1 to Paragraph (c) – HPT 1st-Stage Disk, P/N 30G6201 or 30G7301

HPT 1st-Stage Disk P/N	HPT 1st-Stage Disk S/N
30G6201	LKLBCG9614
30G6201	LKLBDX9135
30G6201	LKLBEF4499
30G6201	LKLBCL8431
30G6201	LKLBDX9233
30G6201	LKLBDX9159
30G6201	LKLBDX9273
30G6201	LKLBBX3713
30G6201	LKLBDX9200
30G6201	LKLBDX9276
30G6201	LKLBDA1782
30G6201	LKLBEF4550
30G7301	LKLBEK6166
30G7301	LKLBEY0974
30G7301	LKLBEJ7493
30G7301	LKLBEY4908
30G7301	LKLBEP5334
30G7301	LKLBEX5852
30G7301	LKLBFA2128
30G7301	LKLBEY4944
30G7301	LKLBGF8458

Figure 2 to Paragraph (c) – HPT 2nd-Stage Disk, P/N 30G5502 or 30G6602

HPT 2nd-Stage Disk P/N	HPT 2nd-Stage Disk S/N
30G5502	LKLBCC0111
30G5502	LKLBD40504
30G5502	LKLBD40476
30G5502	LKLBC29705
30G5502	LKLBC29734
30G5502	LKLBCP4546
30G5502	LKLBCP4502
30G5502	LKLBC02866
30G5502	LKLBCP4501
30G5502	LKLBBX2558
30G5502	LKLBC02909
30G5502	LKLBC02820
30G5502	LKLBC02871
30G5502	LKLBC02859
30G5502	LKLBC02877
30G5502	LKLBBX2564
30G5502	LKLBCP4555
30G5502	LKLBBX2576
30G5502	LKLBC29762
30G5502	LKLBC02860
30G5502	LKLBC02881
30G5502	LKLBC02864
30G5502	LKLBC02876
30G5502	LKLBC02880
30G5502	LKLBD40491
30G5502	LKLBC02873
30G5502	LKLBBX2560
30G5502	LKLBCP4504
30G5502	LKLBC02840
30G5502	LKLBD40433
30G5502	LKLBD40437
30G6602	LKLBEX5800
30G6602	LKLBEK1972
30G6602	LKLBEP4213
30G6602	LKLBFD4429
30G6602	LKLBFD4445
30G6602	LKLBGJ4215
30G6602	LKLBFD4402

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(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by an analysis performed by Pratt & Whitney of an event involving an uncontained failure of an HPT 1st-stage disk that resulted in high-energy debris penetrating the engine cowling. The FAA is issuing this AD to prevent failure of the HPT 1st-stage and HPT 2nd-stage disks. The unsafe condition, if not addressed, could result in uncontained HPT disk failure, release of high-energy debris, damage to the engine, damage to the airplane, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For IAE model turbofan engines with an HPT 1st-stage disk, P/N 30G6201 or 30G7301, with an S/N listed in Figure 1 to paragraph (c) of this AD, within 30 days after the effective days of the AD, remove the HPT 1st-stage disk from service.

(2) For IAE model turbofan engines with an HPT 2nd-stage disk, P/N 30G5502 or 30G6602, with an S/N listed in Figure 2 to paragraph (c) of this AD, within 30 days after the effective days of the AD, remove the HPT 2nd-stage disk from service.

(h) 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 (i) 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.

(i) Related Information

For more information about this AD, contact Mark Taylor, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7229; fax: (781) 238–7199; email: *Mark.Taylor@faa.gov.*

(j) Material Incorporated by Reference

None.

Issued on September 7, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–19600 Filed 9–8–21; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0529; Airspace Docket No. 21–ASO–18]

RIN 2120–AA66

Amendment of Class E Airspace; Monroe, NC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet above the surface for Charlotte-Monroe Executive Airport, Monroe, NC. The FAA is taking this action as a result of the Charlotte Class B Biennial Review. This action also updates the airport's name to Charlotte-Monroe Executive Airport (formerly Monroe Airport). In addition, this action updates the geographic coordinates of the airport to coincide with the FAA's database. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends the Class E airspace extending upward from 700 feet above the surface in Monroe, NC, to support IFR operations in the area.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (86 FR 35419, July 6, 2021) for Docket No. FAA–2021–0529 to amend Class E airspace extending upward from 700 feet above the surface at Charlotte-Monroe Executive Airport, Monroe, NC.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment supporting this action was received.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet above the surface at Charlotte-Monroe Executive Airport, Monroe, NC, by increasing the radius to 9.0 miles, (formerly 6.3 miles). In addition, this action updates the airport's name to Charlotte-Monroe Executive Airport (formerly Monroe Airport) and updates the geographical coordinates to coincide with the FAA's database.

FAA Order 7400.11, Airspace Designations and Reporting Points, is

published yearly and effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASO NC E5 Monroe, NC [Amended]

Charlotte-Monroe Executive Airport, NC
(Lat. 35°01′03″ N, long. 80°37′19″ W)

That airspace extending upward from 700 feet above the surface within a 9.0-mile radius of Charlotte-Monroe Executive Airport.

Issued in College Park, Georgia, on September 3, 2021.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2021–19511 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31390; Amdt. No. 561]

IFR Altitudes; Miscellaneous Amendments

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

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective 0901 UTC, October 7, 2021.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., Registry Bldg. 29, Room 104, Oklahoma City, OK 73125. Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on September 3, 2021.

Wade Terrell,

Aviation Safety Manager, Flight Procedures & Airspace Group, Flight Technologies and Procedures Division.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, October 7, 2021.

■ 1. The authority citation for part 95 continues to read as follows:

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

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 561 effective date October 07, 2021]

FROM	TO	MEA
Color Routes		
§ 95.1115 Amber Federal Airway A15 Is Amended To Read in Part		
HAINES, AK NDB	U.S. CANADIAN BORDER	*11000
*9300—MOCA		
U.S. CANADIAN BORDER	NABESNA, AK NDB	*8400
*6700—MOCA		
§ 95.10 Amber Federal Airway A2 Is Amended To Read in Part		
U.S. CANADIAN BORDER	NABESNA, AK NDB	*8400
*6700—MOCA		

FROM	TO	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3265 RNAV Route T265 Is Amended To Read in Part			
JAYBE, WI WP	GRIFT, IL WP	2800	10000
GRIFT, IL WP	START, IL FIX	2700	10000
START, IL FIX	MEITZ, IL FIX	2700	10000
MEITZ, IL FIX	COYAP, IL WP	2400	10000
COYAP, IL WP	MAPPS, IN FIX	2500	10000
§ 95.3322 RNAV Route T322 Is Added To Read			
RAPID CITY, SD VORTAC	PHILIP, SD VOR/DME	5000	17500
PHILIP, SD VOR/DME	PIERRE, SD VORTAC	4000	17500
PIERRE, SD VORTAC	DAKPE, SD WP	3900	17500
DAKPE, SD WP	DIDDL, SD WP	*3700	17500
*2800—MOCA			
DIDDL, SD WP	OBITT, SD FIX	*3700	17500
*3200—MOCA			
OBITT, SD FIX	CARIT, MN WP	3700	17500
CARIT, MN WP	REDWOOD FALLS, MN VOR/DME	*3700	17500
*3200—MOCA			
§ 95.3325 RNAV Route T325 Is Amended To Delete			
BUNKA, IN FIX	TERRE HAUTE, IN VORTAC	2400	17500
Is Amended by Adding			
BUNKA, IN FIX	JIBKA, IN WP	2400	17500
JIBKA, IN WP	CAPPY, IL WP	2500	17500
CAPPY, IL WP	SMARS, IL WP	3000	17500
SMARS, IL WP	TRENM, IL WP	3100	10000
TRENM, IL WP	START, IL FIX	3100	10000
START, IL FIX	GRIFT, IL WP	2700	10000
GRIFT, IL WP	DEBOW, WI FIX	2800	10000
DEBOW, WI FIX	LUNGS, WI WP	2700	10000
LUNGS, WI WP	HOMNY, WI WP	*2800	10000
*2300—MOCA			
HOMNY, WI WP	OSHKOSH, WI VORTAC	*3900	10000
*2600—MOCA			
§ 95.3354 RNAV Route T354 Is Amended To Read in Part			
FOMAG, WI WP	MAYSE, WI WP	3000	10000

FROM	TO	MEA	MAA
MAYSE, WI WP	HOMRC, IL WP	3000	10000
HOMRC, IL WP	CPTON, IL WP	2600	10000
§ 95.3392 RNAV Route T392 Is Added To Read			
MZEEE, IA WP	KAATO, IA WP	3300	17500
KAATO, IA WP	BERRG, IA WP	3000	17500
BERRG, IA WP	GRSIS, MN WP	3300	17500
§ 95.3397 RNAV Route T397 Is Amended by Adding			
WALNUT RIDGE, AR, VORTAC	VICHY, MO VOR/DME	3000	17500
VICHY, MO VOR/DME	LEWRP, MO WP	3100	17500
LEWRP, MO WP	OHGEE, IA FIX	2800	17500
OHGEE, IA FIX	LACON, IA FIX	2800	17500
LACON, IA FIX	DES MOINES, IA VORTAC	2800	17500
DES MOINES, IA VORTAC	WATERLOO, IA VOR/DME	3100	17500
§ 95.3403 RNAV Route T403 Is Added To Read			
GENEO, MN WP	TESEE, MN FIX	3100	17500
TESEE, MN FIX	ALEXANDRIA, MN VOR/DME	3200	17500
ALEXANDRIA, MN VOR/DME	PARK RAPIDS, MN DME	3300	17500
PARK RAPIDS, MN DME	BLUOX, MN FIX	3500	17500
§ 95.3405 RNAV Route T405 Is Added To Read			
FIITS, SD WP	MITCHELL, SD VOR/DME	3200	17500
MITCHELL, SD VOR/DME	DIDDL, SD WP	3000	17500
DIDDL, SD WP	ABERDEEN, SD VOR/DME	3000	17500
ABERDEEN, SD VOR/DME	JAMESTOWN, ND VOR/DME	3300	17500
JAMESTOWN, ND VOR/DME	FARRM, ND FIX	3400	17500
FARRM, ND FIX	GICHI, ND WP	3500	17500
§ 95.4000 High Altitude RNAV Routes **§ 95.4022 RNAV Route Q22 Is Amended by Adding**			
BEARI, VA WP *18000—GNSS MEA *DME/DME/IRU MEA	UMBRE, VA WP	*18000	45000
UMBRE, VA WP *18000—GNSS MEA *DME/DME/IRU MEA	BBOBO, VA WP	*18000	45000
BBOBO, VA WP *18000—GNSS MEA *DME/DME/IRU MEA	SHTGN, MD WP	*18000	45000
SHTGN, MD WP *18000—GNSS MEA *DME/DME/IRU MEA	SYFER, MD WP	*18000	45000
SYFER, MD WP *18000—GNSS MEA *DME/DME/IRU MEA	DANGR, MD WP	*18000	45000
DANGR, MD WP *18000—GNSS MEA *DME/DME/IRU MEA	PYTHN, DE WP	*18000	45000
PYTHN, DE WP *18000—GNSS MEA *DME/DME/IRU MEA	BESSI, NJ FIX	*18000	45000
BESSI, NJ FIX *18000—GNSS MEA *DME/DME/IRU MEA	JOEPO, NJ WP	*18000	45000
JOEPO, NJ WP *18000—GNSS MEA *DME/DME/IRU MEA	BRAND, NJ FIX	*18000	45000
BRAND, NJ FIX *18000—GNSS MEA *DME/DME/IRU MEA	ROBBINSVILLE, NJ VORTAC	*18000	45000
ROBBINSVILLE, NJ VORTAC *18000—GNSS MEA *DME/DME/IRU MEA	LAURN, NY FIX	*18000	45000
LAURN, NY FIX *18000—GNSS MEA *DME/DME/IRU MEA	LLUND, NY FIX	*18000	45000
LLUND, NY FIX *18000—GNSS MEA	BAYYS, CT FIX	*18000	45000

FROM	TO	MEA	MAA
*DME/DME/IRU MEA			
BAYYS, CT FIX	FOXWD, CT WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4029 RNAV Route Q29 Is Amended To Delete			
BAKRE, MS WP	MEMPHIS, TN VORTAC	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
MEMPHIS, TN VORTAC	OMDUE, TN WP	*20000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
Is Amended by Adding			
BAKRE, MS WP	MEMFS, TN WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
MEMFS, TN WP	OMDUE, TN WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
Is Amended To Read in Part			
HARES, LA WP	BAKRE, MS WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
OMDUE, TN WP	SIDAE, KY WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
NIPPY, NY WP	CABCI, VT WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
CABCI, VT WP	EBONY, ME FIX	*18000	45000
*GNSS REQUIRED			
EBONY, ME FIX	U.S. CANADIAN BORDER	*18000	45000
*GNSS REQUIRED			
§ 95.4034 RNAV Route Q34 Is Amended To Delete			
TEXARKANA, AR VORTAC	MEMPHIS, TN VORTAC	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
MEMPHIS, TN VORTAC	SWAPP, TN FIX	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
Is Amended by Adding			
TEXARKANA, AR VORTAC	LOOSE, AR WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
LOOSE, AR WP	WASKO, AR FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
WASKO, AR FIX	MATIE, AR FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
MATIE, AR FIX	EDWAH, AR WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
EDWAH, AR WP	MEMFS, TN WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
MEMFS, TN WP	HENSY, TN WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
HENSY, TN WP	WAKOL, TN WP	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
WAKOL, TN WP	SWAPP, TN FIX	*18000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
SWAPP, TN FIX	GHATS, KY FIX	*18000	45000

FROM	TO	MEA	MAA
*18000—GNSS MEA *DME/DME/IRU MEA			
GHATS, KY FIX	FOUNT, KY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
FOUNT, KY FIX	TONIO, KY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
TONIO, KY FIX	KONGO, KY FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
KONGO, KY FIX	NEALS, WV FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
NEALS, WV FIX	SITTR, WV WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
SITTR, WV WP	ASBUR, WV FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
ASBUR, WV FIX	DENNY, VA FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
DENNY, VA FIX	MAULS, VA WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
MAULS, VA WP	GORDONSVILLE, VA VORTAC	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
GORDONSVILLE, VA VORTAC	BOOYA, VA WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
BOOYA, VA WP	DUALY, MD WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
DUALY, MD WP	BIGRG, MD WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
BIGRG, MD WP	PNGWN, NJ WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
PNGWN, NJ WP	HULKK, NJ WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
HULKK, NJ WP	ROBBINSVILLE, NJ VORTAC	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4054 RNAV Route Q54 Is Amended To Delete			
GREENWOOD, SC VORTAC	NYLLA, SC WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
Is Amended by Adding			
HRTWL, SC WP	NYLLA, SC WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
RAANE, NC WP	ASHEL, NC WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
ASHEL, NC WP	NUTZE, NC WP	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
§ 95.4064 RNAV Route Q64 Is Amended To Delete			
FIGEY, GA WP	GREENWOOD, SC VORTAC	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			
GREENWOOD, SC VORTAC	DARRL, SC FIX	*18000	45000
*18000—GNSS MEA *DME/DME/IRU MEA			

FROM	TO	MEA	MAA
Is Amended by Adding			
FIGEY, GA WP *18000—GNSS MEA *DME/DME/IRU MEA	HRTWL, SC WP	*18000	45000
HRTWL, SC WP *18000—GNSS MEA *DME/DME/IRU MEA	DARRL, SC WP	*18000	45000
IDDAA, NC WP *18000—GNSS MEA *DME/DME/IRU MEA	DADDS, NC WP	*18000	45000
DADDS, NC WP *18000—GNSS MEA *DME/DME/IRU MEA	MARCL, NC WP	*18000	45000
MARCL, NC WP *18000—GNSS MEA *DME/DME/IRU MEA	TAR RIVER, NC VORTAC	*18000	45000
TAR RIVER, NC VORTAC *18000—GNSS MEA *DME/DME/IRU MEA	GUILD, NC WP	*18000	45000
GUILD, NC WP *18000—GNSS MEA *DME/DME/IRU MEA	SAWED, VA FIX	*18000	45000
§ 95.4419	**RNAV Route Q419 Is Added To Read**		
BROSS, MD FIX *18000—GNSS MEA *DME/DME/IRU MEA	MYFOO, DE WP	*18000	45000
MYFOO, DE WP *18000—GNSS MEA *DME/DME/IRU MEA	NACYN, NJ WP	*18000	45000
NACYN, NJ WP *18000—GNSS MEA *DME/DME/IRU MEA	BSERK, NJ WP	*18000	45000
BSERK, NJ WP *18000—GNSS MEA *DME/DME/IRU MEA	HULKK, NJ WP	*18000	45000
HULKK, NJ WP *18000—GNSS MEA *DME/DME/IRU MEA	ROBBINSVILLE, NJ VORTAC	*18000	45000
ROBBINSVILLE, NJ VORTAC *18000—GNSS MEA *DME/DME/IRU MEA	LAURN, NY FIX	*18000	45000
LAURN, NY FIX *18000—GNSS MEA *DME/DME/IRU MEA	KENNEDY, NY VOR/DME	*18000	45000
KENNEDY, NY VOR/DME *18000—GNSS MEA *DME/DME/IRU MEA	DEER PARK, NY VOR/DME	*18000	45000
§ 95.4437	**RNAV Route Q437 Is Added To Read**		
VILLS, NJ FIX *18000—GNSS MEA *DME/DME/IRU MEA	DITCH, NJ FIX	*18000	45000
DITCH, NJ FIX *18000—GNSS MEA *DME/DME/IRU MEA	LUIGI, NJ FIX	*18000	45000
LUIGI, NJ FIX *18000—GNSS MEA *DME/DME/IRU MEA	HNNAH, NJ FIX	*18000	45000
HNNAH, NJ FIX *18000—GNSS MEA *DME/DME/IRU MEA	LLUND, NY FIX	*18000	45000
LLUND, NY FIX *18000—GNSS MEA *DME/DME/IRU MEA	BIZEX, NY WP	*18000	45000
BIZEX, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	BINGS, NY WP	*18000	45000
BINGS, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	WARUV, NY WP	*18000	45000

FROM	TO	MEA	MAA
WARUV, NY WP *18000—GNSS MEA *DME/DME/IRU MEA	SLANG, VT WP	*18000	45000
§ 95.4811 RNAV Route Q811 Is Added To Read			
DILLINGHAM, AK VOR/DME *GNSS REQUIRED	KOWOK, AK FIX	*18000	45000
KOWOK, AK FIX *GNSS REQUIRED	SAHOK, AK FIX	*18000	45000
SAHOK, AK FIX *GNSS REQUIRED	FAGIN, AK FIX	*18000	45000
FAGIN, AK FIX *GNSS REQUIRED	NONDA, AK FIX	*18000	45000
NONDA, AK FIX *GNSS REQUIRED	AMOTT, AK FIX	*18000	45000
AMOTT, AK FIX *GNSS REQUIRED	GASTO, AK FIX	*18000	45000
GASTO, AK FIX *GNSS REQUIRED	ANCHORAGE, AK VOR/DME	*18000	45000
ANCHORAGE, AK VOR/DME *GNSS REQUIRED	GULKANA, AK VOR/DME	*18000	45000
GULKANA, AK VOR/DME *GNSS REQUIRED	U.S. CANADIAN BORDER	*18000	45000
§ 95.4902 RNAV Route Q902 Is Added To Read			
SEATTLE, WA VORTAC *GNSS REQUIRED	ORCUS, WA FIX	*18000	45000
ORCUS, WA FIX *GNSS REQUIRED	U. S. CANADIAN BORDER	*18000	45000
U. S. CANADIAN BORDER *GNSS REQUIRED	ANNETTE ISLAND, AK VOR/DME	*18000	45000
ANNETTE ISLAND, AK VOR/DME *GNSS REQUIRED	GESTI, AK FIX	*18000	45000
GESTI, AK FIX *GNSS REQUIRED	DOOZI, AK FIX	*18000	45000
DOOZI, AK FIX *GNSS REQUIRED	LEVEL ISLAND, AK VOR/DME	*18000	45000
LEVEL ISLAND, AK VOR/DME *GNSS REQUIRED	HOODS, AK FIX	*18000	45000
HOODS, AK FIX *GNSS REQUIRED	SISTERS ISLAND, AK VORTAC	*18000	45000
SISTERS ISLAND, AK VORTAC *GNSS REQUIRED	U. S. CANADIAN BORDER	*18000	45000
U. S. CANADIAN BORDER *GNSS REQUIRED	NORTHWAY, AK VORTAC	*18000	45000
NORTHWAY, AK VORTAC *GNSS REQUIRED	RDFLG, AK FIX	*18000	45000
RDFLG, AK FIX *GNSS REQUIRED	HRDNG, AK FIX	*18000	45000
HRDNG, AK FIX *GNSS REQUIRED	FAIRBANKS, AK VORTAC	*18000	45000
FAIRBANKS, AK VORTAC *GNSS REQUIRED	KOTZEBUE, AK VOR/DME	*18000	45000

FROM	TO	MEA
§ 95.6001 Victor Routes—U.S. **§ 95.6008 VOR Federal Airway V8 Is Amended To Read in Part**		
MOLINE, IL VOR/DME	TRIDE, IL FIX.	
	W BND	3300
	E BND	4000
TRIDE, IL FIX	JOLIET, IL VOR/DME.	
	E BND	2600
	W BND	3300
§ 95.6009 VOR Federal Airway V9 Is Amended To Delete		
PONTIAC, IL VOR/DME	KELSI, IL FIX	3000
KELSI, IL FIX	ROCKFORD, IL VOR/DME	2700
ROCKFORD, IL VOR/DME	JANESVILLE, WI VOR/DME	2700

FROM	TO	MEA
§ 95.6038 VOR Federal Airway V38 Is Amended To Read in Part		
MOLINE, IL VOR/DME	TRIDE, IL FIX.	
	W BND	3300
	E BND	4000
§ 95.6039 VOR Federal Airway V39 Is Amended To Delete		
CHESTER, MA VOR/DME	VAPER, MA FIX	*3700
*3200—MOCA		
VAPER, MA FIX	GARDNER, MA VOR/DME	*3500
*2900—MOCA		
GARDNER, MA VOR/DME	CONCORD, NH VOR/DME	4000
CONCORD, NH VOR/DME	*NEETS, NH WP	3500
*4500—MCA NEETS, NH WP, NE BND		
NEETS, NH WP	*LABEL, ME WP	**6000
*7000—MCA LABEL, ME WP, NE BND		
**3500—MOCA		
**3500—GNSS MEA		
LABEL, ME WP	AUGUSTA, ME VOR/DME	*7000
*3600—MOCA		
*3600—GNSS MEA		
§ 95.6063 VOR Federal Airway V63 Is Amended To Delete		
DAVENPORT, IA VORTAC	MIHAL, IL FIX	2700
MIHAL, IL FIX	ROCKFORD, IL VOR/DME	2700
ROCKFORD, IL VOR/DME	JANESVILLE, WI VOR/DME	2700
§ 95.6093 VOR Federal Airway V93 Is Amended To Delete		
CHESTER, MA VOR/DME	KEENE, NH VORTAC	*4000
*3500—GNSS MEA		
KEENE, NH VORTAC	CONCORD, NH VOR/DME	5000
CONCORD, NH VOR/DME	KENNEBUNK, ME VOR/DME	3000
KENNEBUNK, ME VOR/DME	BRNNS, ME FIX	*3000
*1600—MOCA		
BRNNS, ME FIX	BANGOR, ME VORTAC	3000
§ 95.6100 VOR Federal Airway V100 Is Amended To Delete		
DUBUQUE, IA VORTAC	ROCKFORD, IL VOR/DME	2900
ROCKFORD, IL VOR/DME	KRENA, IL FIX	2800
KRENA, IL FIX	FARMM, IL FIX	2900
FARMM, IL FIX	NORTHBROOK, IL VOR/DME	2700
§ 95.6127 VOR Federal Airway V127 Is Amended To Delete		
BRADFORD, IL VORTAC	WYNET, IL FIX	2700
WYNET, IL FIX	POLO, IL VOR/DME	2600
POLO, IL VOR/DME	ROCKFORD, IL VOR/DME	2700
§ 95.6159 VOR Federal Airway V159 Is Amended To Read in Part		
HODEN, MO FIX	NAPOLEON, MO VORTAC	3000
§ 95.6171 VOR Federal Airway V171 Is Amended To Delete		
JOLIET, IL VOR/DME	ROCKFORD, IL VOR/DME	2700
§ 95.6175 VOR Federal Airway V175 Is Amended To Delete		
HALLSVILLE, MO VORTAC	MACON, MO VOR/DME	3100
MACON, MO VOR/DME	KIRKSVILLE, MO VORTAC	2700
§ 95.6193 VOR Federal Airway V193 Is Amended To Read in Part		
MUSKY, MI FIX	PULLMAN, MI VOR/DME	UNUSABLE
PULLMAN, MI VOR/DME	CLOCK, MI FIX	UNUSABLE
CLOCK, MI FIX	WHITE CLOUD, MI VOR/DME	UNUSABLE
WHITE CLOUD, MI VOR/DME	TRAVERSE CITY, MI VOR/DME	UNUSABLE
§ 95.6285 VOR Federal Airway V285 Is Amended To Read in Part		
VICTORY, MI VOR/DME	CLOCK, MI FIX	UNUSABLE

FROM	TO	MEA
CLOCK, MI FIX	WHITE CLOUD, MI VOR/DME	UNUSABLE
§ 95.6325 VOR Federal Airway V325 Is Amended To Read in Part		
GADSDEN, AL VOR/DME	MUSCLE SHOALS, AL VORTAC	3500
§ 95.6341 VOR Federal Airway V341 Is Amended To Read in Part		
DUBUQUE, IA VORTAC	MADISON, WI VORTAC	4000
§ 95.6424 VOR Federal Airway V424 Is Amended To Delete		
NAPOLEON, MO VORTAC	MACON, MO VOR/DME	2900
§ 95.6531 VOR Federal Airway V531 Is Amended To Read in Part		
PALM BEACH, FL VORTAC	*SHEDS, FL FIX	3000
*3000—MRA		
SHEDS, FL FIX	CUSMO, FL FIX	*6000
*2000—MOCA		
*2000—GNSS MEA		
CUSMO, FL FIX	BAIRN, FL FIX	#*6000
*2000—MOCA		
*2000—GNSS MEA		
#PALM BEACH R-327 UNUSABLE CUSMO-BAIRN.		
§ 95.6586 VOR Federal Airway V586 Is Amended To Delete		
EXCEL, MO FIX	MACON, MO VOR/DME	*3000
*2300—MOCA		
MACON, MO VOR/DME	QUINCY, IL VORTAC	2700
§ 95.6444 Alaska VOR Federal Airway V444 Is Amended To Read in Part		
NORTHWAY, AK VORTAC	U.S. CANADIAN BORDER	*8400
*5800—MOCA		
§ 95.6482 Alaska VOR Federal Airway V482 Is Amended To Delete		
JOHNSTONE POINT, AK VOR/DME	TOSIN, AK FIX	*10000
*9300—MOCA		
TOSIN, AK FIX	RIVVA, AK FIX	6000
RIVVA, AK FIX	GULKANA, AK VOR/DME	*5000
*4500—MOCA		

FROM	TO	MEA	MAA
§ 95.7001 Jet Routes			
§ 95.7502 Jet Route J502 Is Amended To Delete			
SISTERS ISLAND, AK VORTAC	U.S. CANADIAN BORDER	18000	45000
U.S. CANADIAN BORDER	NORTHWAY, AK VORTAC	18000	45000
§ 95.7511 Jet Route J511 Is Amended To Delete			
GULKANA, AK VOR/DME	U.S. CANADIAN BORDER	18000	45000

[FR Doc. 2021–19514 Filed 9–9–21; 8:45 am]

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1204

[Document Number NASA–21–052; Docket Number–NASA–2021–0004]

RIN 2700–AE53

Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Direct final rule.

SUMMARY: This direct final rule makes non-substantive changes to update the list of available airport facilities.

DATES: This direct final rule is effective on November 9, 2021. Comments due on or before October 12, 2021. If adverse comments are received, NASA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Comments must be identified with RINs 2700–AE53 and may be sent to NASA via the *Federal E-Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Please note that NASA will post all comments on the internet with changes, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Daniela Cruzado, 202–358–1173.

SUPPLEMENTARY INFORMATION:

Direct Final Rule and Significant Adverse Comments

NASA has determined this rulemaking meets the criteria for a direct final rule because it makes non-substantive changes to provide updated available NASA airfield facilities. No opposition to the changes and no significant adverse comments are expected. However, if NASA receives significant adverse comments, it will withdraw this direct final rule by publishing a notification in the **Federal Register**. A significant adverse comment is one that explains: (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, NASA will consider whether it warrants a substantive response in a notice and comment process.

Background

Subpart 14 of part 1204, promulgated July 29, 1991 [56 FR 35812], establishes the responsibilities, conditions, and procedures for the use of NASA airfield facilities by aircrafts not operated for the benefit of the Federal Government. Sections 1204.1401, 1204.1403, 1204.1404, and 1204.1405 will be amended to update the list of available NASA airfield facilities.

Statutory Authority

The National Aeronautics and Space Act (the Space Act), 51 U.S.C. 20113 (a), authorizes the Administrator of NASA to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of its operations and the exercise of the powers vested in it by law.

Regulatory Analysis

Executive Order 12866, Regulatory Planning and Review and Executive Order 13563, Improvement Regulation and Regulation Review

Executive Orders (E.O.) 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been designated as ''not significant'' under section 3(f) of E.O. 12866.

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to prepare an initial regulatory flexibility analysis to be published at the time the proposed rule is published. This requirement does not apply if the agency ''certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities'' (5 U.S.C. 603). This rule removes one section from title 14 of the CFR and, therefore, does not have a significant economic impact on a substantial number of small entities.

Review Under the Paperwork Reduction Act

This direct final rule does not contain any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Review Under E.O. 13132

E.O. 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), requires regulations to be reviewed for federalism effects on the institutional interest of states and local governments, and, if the effects are sufficiently substantial, preparation of the Federal assessment is required to assist senior policy makers. The amendments will not have any substantial direct effects on state and local governments within the meaning of the E.O.. Therefore, no federalism assessment is required.

List of Subjects in 14 CFR Part 1204

Administrative practice and procedure, Airports, Authority delegations (Government agencies), Federal buildings and facilities, Government contracts, Government procurement, Intergovernmental relations, Security measures, Small businesses.

Accordingly, under the authority of the National Aeronautics and Space Act, as amended, 51 U.S.C. 20113, NASA amends 14 CFR part 1204 as follows:

PART 1204—ADMINISTRATIVE AUTHORITY AND POLICY

Subpart 14—Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government

■ 1. This authority citation for part 1204, subpart 14, continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

■ 2. Amend § 1204.1401 by:
■ a. Removing and reserving paragraphs (a)(1), (3), and (4);
■ b. Redesignating paragraphs (b) through (g) as paragraph (c) through (h); and
■ c. Adding new paragraph (b).

The addition reads as follows:

§ 1204.1401 Definitions.

* * * * *

(b) *NASA owned but non-NASA operated airfield facility.* Those aeronautical facilities owned by NASA but not operated by NASA that consist of the following:

(1) *Shuttle Landing Facility (SLF).* The aeronautical facility which is a part of the John F. Kennedy Space Center (KSC), Kennedy Space Center, Florida, and is located at 80°41′ west longitude and 28°37′ north latitude.

(2) *Moffett Federal Airfield (MFA).* The aeronautical facility which is part of the Ames Research Center, Moffett Field, California, and is located at 122°03′ west longitude and 37°25′ north latitude.

* * * * *

■ 3. Amend § 1204.1403 by:
■ a. Removing and reserving paragraphs (a), (c), and (d); and

■ b. Revising paragraphs (e) and (f).

The revisions read as follows:

§ 1204.1403 Available airport facilities.

* * * * *

(e) *NASA owned but non-NASA operated airfields.* (1) Shuttle Landing Facility (SLF) may be made available on an individual emergency basis to a user with prior permission from the airfield operator.

(2) Moffett Federal Airfield (MFA) may be made available on an individual emergency basis to a user with prior permission from the airfield operator.

(3) No facilities or services other than those described in this section are available except on an individual prior permission or emergency basis to any user.

(f) *Status of facilities.* Changes to the status of the KSC, WFF, and MFA facilities will be published in appropriate current FAA or Department of Defense (DOD) aeronautical publications.

§ 1204.1404 [Amended]

■ 4. Amend § 1204.1404 by removing and reserving paragraphs (a)(1) and (3).

■ 5. Amend § 1204.1405 by revising paragraph (c) to read as follows:

§ 1204.1405 Approving authority.

* * * * *

(c) *Moffett Federal Airfield.* Chief, Airfield Management Office, Ames Research Center, NASA.

Nanette Smith,

Team Lead, NASA Directives and Regulations.

[FR Doc. 2021–19508 Filed 9–9–21; 8:45 am]

BILLING CODE 7510–13–P

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1304

RIN 3316–AA24

Floating Cabins

AGENCY: Tennessee Valley Authority.

ACTION: Final rule.

SUMMARY: The Tennessee Valley Authority (TVA) is publishing a final rule to amend its regulations that govern floating cabins located on the Tennessee River System. The unrestrained mooring of floating cabins on the Tennessee River System, if left unaddressed, would pose unacceptable risks to navigation, safety, the environment, and public lands. These amendments provide health, safety, and environmental standards as well as establish permitting standards with regard to rebuilding, modifying, or combining floating cabins.

DATES: This final rule is effective October 12, 2021.

FOR FURTHER INFORMATION CONTACT: David B. Harrell, 865–632–1327, Email: *dbharrell@tva.gov* or *fc@tva.gov,* Mail address: Tennessee Valley Authority, 400 West Summit Hill Drive, WT 11A–K, Knoxville, TN 37902.

SUPPLEMENTARY INFORMATION:

Legal Authority

This final rule is promulgated under the authority of the TVA Act, as amended, 16 U.S.C. 831–831ee, Title V of the Independent Offices Appropriations Act of 1955, 31 U.S.C. 9701, and OMB Circular No. A–25. Under Section 26a of the TVA Act, no obstructions affecting navigation, flood control, or public lands or reservations shall be constructed, operated, or maintained across, along, or in the Tennessee River System without TVA's approval. Nonnavigable structures, such as floating cabins, are obstructions that require TVA's approval. In addition, Section 9b of the TVA Act provides that TVA may require floating cabins to be maintained by the owner to reasonable health, safety, and environmental standards. Section 9b also authorizes TVA to levy fees on floating cabin owners as necessary and reasonable to ensure compliance.

Background

TVA is a multi-purpose federal agency that has been charged by Congress with promoting the wise use and conservation of the resources of the Tennessee Valley region, including the Tennessee River System. In carrying out this mission, TVA operates a system of dams and reservoirs on the Tennessee River and its tributaries for the purposes of navigation, flood control, and power production. Consistent with its mission, TVA also uses the system to improve water quality and water supply and to provide a wide range of public benefits, including recreation and natural resource stewardship.

To promote the unified development and regulation of the Tennessee River System, Congress directed TVA to approve obstructions across, along, or in the river system under Section 26a of the TVA Act. ''Obstruction'' is a broad term that includes, by way of example, boat docks, piers, boathouses, buoys, floats, boat launching ramps, fills, water intakes, devices for discharging effluents, bridges, aerial cables, culverts, pipelines, fish attractors, shoreline stabilization projects, channel excavations, and floating cabins. TVA also owns, as agent for the United States, much of the shoreland and inundated land along and under its reservoir system.

Since 1971, pursuant to Section 26a, TVA has prohibited the mooring on the Tennessee River System of new floating cabins (formerly nonnavigable houseboats) that are designed and used primarily for human habitation or occupation and not for transportation on the water. In particular, TVA amended its regulations in 1971 to prohibit the mooring or anchoring of new nonnavigable houseboats except those in existence before November 21, 1971. Criteria were established then to identify when a houseboat was considered ''navigable'' and the conditions under which existing nonnavigable houseboats would be allowed to remain. These criteria were characteristics that TVA determined were indicative of real watercraft; *i.e.,* boats or vessels that are designed and used primarily to traverse water. In 1978, TVA reiterated the prohibited mooring of nonnavigable houseboats on the Tennessee River System except for those in existence on or before February 15, 1978.

Despite over 40 years of Section 26a regulations related to floating cabins, the number of floating cabins on the Tennessee River System continued to increase. In determining what action to take with respect to floating cabins, TVA prepared an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act. This EIS assessed the environmental and socioeconomic impacts of different policies to address the proliferation of floating cabins on the Tennessee River System. TVA released a draft of this EIS for public comment in June 2015 and held four public meetings and a webinar to provide information about its analyses and to facilitate public involvement. Public reaction to this situation varied widely.

Many members of the general public urged TVA to require the removal of all floating cabins since TVA's reservoirs are public resources and owners of floating cabins are occupying public areas. Owners of floating cabins generally supported additional reasonable regulation of their structures but argued against policies requiring their removal because of the investments they have made in the structures. Other commenters had concerns about discharges of blackwater (sewage) and graywater (showers, sinks, etc.) from floating cabins and shock and electrocution risks associated with the electrical connections to floating cabins. Commenting agencies consistently supported better regulation of floating cabins. The final EIS and associated

documents can be found at *https://www.tva.com/floatingcabins.*

After considering the comments it received during the EIS process and its analyses of impacts, TVA identified as its preferred policy one that establishes standards to ensure safer mooring, electrical connections, and protection of water quality. Under the preferred policy, the mooring of new floating cabins would be prohibited on the Tennessee River System. The preferred policy would have required all existing floating cabins, including nonnavigable houseboats, to be removed from the Tennessee River System by January 1, 2036, and be subject to a regulatory program in the interim. On May 5, 2016, the TVA Board of Directors (Board) adopted the preferred policy, but the Board extended the removal date to May 5, 2046.

On December 16, 2016, Congress enacted the Water Infrastructure Improvements for the Nation Act of 2016 (WIIN Act). Title IV Section 5003 related to floating cabins and amended the TVA Act to include Section 9b. This new section of the TVA Act provides that TVA may approve and allow the use of floating cabins that were located on waters under the jurisdiction of TVA as of December 16, 2016, if the floating cabin is maintained to reasonable health, safety, and environmental standards as required by the Board and if the owner pays a compliance fee if assessed by TVA. The WIIN Act stipulates that TVA may not require the removal of a floating cabin that was located on the Tennessee River System as of December 16, 2016: (1) For a period of 15 years if it was granted a permit by TVA before the WIIN Act's enactment, or (2) for a period of five years if it was not granted a permit by TVA before the WIIN Act's enactment. It further stipulates that TVA may establish regulations to prevent the construction of new floating cabins. These regulations were planned in two phases.

Phase I Floating Cabins Amendments

TVA published Phase I rule amendments for floating cabins that became effective on October 1, 2018 (83 FR 44467). These amendments clarified the types of structures that TVA will regulate as a floating cabin and prohibited new floating cabins from mooring on the Tennessee River System after December 16, 2016. TVA estimates that approximately 2,250 floating cabins were moored on the Tennessee River System on December 16, 2016. These initial rule amendments also incorporated a requirement for owners to register their floating cabins and identified locations where floating cabins may moor.

Phase II Floating Cabin Amendments

This final rule includes health, safety, environmental, and permitting standards that will apply to all floating cabins. A diverse stakeholder group composed of 18 members provided input to TVA on the development and drafting of these standards. The group represented varied interests and perspectives. Members included representatives from floating cabin owners, lake user interests, fishing interests, marina owners, local power distributors, state and federal regulatory agencies, the insurance industry, and the general public. The full group met five times from August 2017 to June 2019 at various locations, including locations near Norris and Fontana Reservoirs where floating cabins are prevalent. Teleconferences were also held among three subgroups to develop and discuss recommendations in specific subject matter areas. An industry professional in marine electricity presented to the group and helped answer questions regarding electricity at marinas and in water. TVA tested and displayed ground fault protection devices for the group to observe and discuss.

Each of the three subgroups made recommendations for a subset of standards. Recommendations were presented to the full stakeholder group for wastewater, electrical, flotation, mooring, fees, permitting standards, and compliance. TVA reviewed and evaluated the recommendations and responded to each recommendation. TVA refined the recommendations and developed them into proposed rule amendments for publication for public review and comment. A draft of the rule amendments was reviewed with the stakeholder group in June 2019, and TVA made some modifications after that discussion. TVA published the proposed rule amendments for a 90-day public comment period on December 10, 2019 (84 FR 67386).

Final Rule

The final rule for floating cabins applies to all existing floating cabins, including those formerly referred to as nonnavigable houseboats originally permitted on or before February 15, 1978. All floating cabins and attached structures must be registered and obtain a new permit from TVA.

The final rule allows floating cabin owners additional time to register with TVA, until December 9, 2021. To obtain a Section 26a permit, owners of floating cabins will have until October 1, 2024, to comply with the standards in TVA's regulations and submit a complete permit application that certifies compliance and includes the payment of a permit application fee. TVA will not require floating cabin owners to pay the initial permit application fee if they possess a permit in their name issued before December 16, 2016, and the structure is compliant with the terms of the permit, constructed in accordance with the permit (same dimensions, attached structures such as docks, and utility connections), and moored at the permitted location. A change in ownership application fee, currently $250, will be charged each time an existing floating cabin owner requests a transfer of the permit to a new owner. Permits will only be transferrable if the structure is in full compliance with the existing permit; requests not compliant with the previous permit will be subject to the standard permit application fee, and modifications not compliant with the rules will be denied.

The permit application submission date of October 1, 2024, will give owners nearly four years from the publication of the final standards to bring structures into compliance. TVA encourages floating cabin owners to bring floating cabins into compliance and apply for a permit without delay. Upon submission of the application, owners of floating cabins may remain in place until TVA acts on the application. If TVA approves the application, TVA will issue a Section 26a permit to the owner. If TVA denies the application, the owner must either correct all deficiencies and submit a new application or remove the structure in accordance with Section 9b of the TVA Act and 18 CFR 1304.406.

Removal

Under the final rule, TVA will have the authority to require owners to remove their floating cabins if TVA determines a floating cabin is not in compliance with its permit, does not apply for a permit by October 1, 2024, or does not pay the compliance fee if levied by TVA. The requirement to remove a floating cabin will be in accordance with Section 9b of the TVA Act and 18 CFR 1304.406. All structures not removed by the applicable deadline may be removed by TVA at the owner's expense.

Flotation

Unencased flotation (*i.e.,* Styrofoam) breaks apart over time, can harm wildlife, and becomes litter in reservoirs or along shorelines. Currently, all docks, floating cabins, and other water-use structures and facilities permitted by

TVA are subject to 18 CFR 1304.400, which establishes flotation requirements to protect the environment from harmful flotation materials, such as Styrofoam and the contents of metal drums, which were common flotation devices in the past. TVA's current regulations prohibit unencased flotation unless it was previously allowed by TVA, was installed prior to September 8, 2003, and is still serviceable in TVA's judgment. TVA's current rules prohibit the installation of unencased flotation to repair or replace existing flotation that is no longer serviceable. This final rule requires the removal and replacement of all unencased flotation no later than December 31, 2031. If TVA determines that the existing unencased flotation is no longer serviceable prior to December 31, 2031, owners will have 24 months from notification from TVA to remove and replace it. These changes will apply to all Section 26a permits, including those authorizing floating cabins.

Mooring

Some floating cabins are moored by running cables across the water to attach to a tree or other anchor on the shoreline. This potentially obstructs navigation and recreation, poses a potential hazard to public safety, and can detract from the scenic integrity of the areas where floating cabins are located. Current regulations require floating cabins to be moored in such a manner as to: (1) Avoid obstruction of or interference with navigation, flood control, public lands, or reservations; (2) avoid adverse effects on public lands or reservations; (3) prevent the preemption of public waters when moored in permanent locations outside of the approved harbor limits of commercial marinas; (4) protect land and land rights owned by the United States alongside and subjacent to TVA reservoirs from trespass and other unlawful and unreasonable uses; and (5) maintain, protect, and enhance the quality of the human environment.

These regulations will continue to apply to floating cabins. Two additional requirements will be added: (1) Floating cabin owners must ensure visibility of all mooring cables and (2) floating cabin owners must comply with 18 CFR 1304.205(c), which prohibits attachment to trees on TVA property. The method of mooring should be modified, if necessary, to eliminate navigation and safety hazards. If modification of the mooring method is not practical or feasible, TVA's permit will require the hazard to be marked to aid in visibility and to help avoid property damage and personal injury. Permit applicants must indicate how the structure is moored, and TVA will determine if that method is allowable. Any determinations on proper mooring and hazard marking will be made during the permit review process.

TVA's current regulations specify locations where floating cabins must be located. These include areas where the floating cabin was moored as of December 16, 2016, and the owner has sufficient land ownership or land rights as specified in the regulations; locations where the owner had written permission from TVA prior to December 16, 2016; or within the harbor limits of a commercial marina. To prevent sprawl and to better contain the impacts of floating cabins, the final rule prohibits relocation of permitted floating cabins to a different reservoir. TVA will consider applications to relocate existing floating cabins to any commercial marina on their respective reservoir that is willing to accept them. Any relocation, except within the harbor limits of the same marina, will require advance approval from TVA in the form of a new permit and concurrence from the receiving marina operator.

Electrical

Floating cabins can also pose a threat to public safety due to unsafe electrical systems. TVA is aware that floating cabins are currently obtaining electricity from the shore via underwater cables, through onboard portable generators, and by other methods. TVA is not aware of any local, state, or federal entity that currently monitors the construction of floating cabins and enforces building codes. However, after the WIIN Act, these agencies may consider floating cabins to be more like houses rather than vessels, and agencies may determine to regulate and inspect those within their jurisdiction. If an agency chooses to regulate, floating cabins will be required to comply with all applicable federal, state, and local laws and regulations regarding electrical wiring and equipment. If a floating cabin is documented to be in violation of any federal, state, or local electrical standard or regulation by the respective regulatory agency, TVA will have the authority to revoke the permit and require removal of the floating cabin from the Tennessee River System if the violation is not corrected as specified by the regulatory agency in accordance with the agency's requirements.

In addition to and at a minimum, TVA will require all floating cabin owners to install ground fault protection and to use properly listed underwater cables. At two-year intervals, TVA will require floating cabin owners to provide certification that the floating cabin meets these requirements. TVA's electrical requirements are based on the 2017 National Electric Code (NEC). Ground fault protection requirements for floating buildings can be found in Section 553; requirements for marinas can be found in Section 555. Ground fault is defined in Section 100. NEC requires underwater cables for floating buildings to be extra hard usage portable power cables listed for wet locations and sunlight resistance. NEC table 400.4 provides a listing of flexible cable types and designations with these ratings.

Wastewater

Floating cabins use various methods to manage their wastewater (both blackwater and graywater). Some have holding tanks for blackwater and use pump-out facilities to dispose of it through land-based systems. TVA has received complaints of some floating cabins discharging blackwater and/or graywater directly to the reservoir. Graywater originates from sinks, showers, dishwashers, and washing machines and is often discharged by floating cabins directly to the reservoir. Blackwater and graywater discharges can contribute to water quality deterioration. Discharges are regulated by state environmental agencies and the EPA.

The final rule requires floating cabin owners to comply with discharge requirements set by local, state, or federal agencies and incorporates requirements of Section 401 of the Clean Water Act (CWA). If TVA is notified by a federal, state, or local agency that an owner of a floating cabin is not compliant with applicable discharge requirements and has failed to correct that deficiency after notification, TVA will have the authority to revoke the floating cabin's Section 26a permit and require the structure to be removed from the Tennessee River System. This should help induce more compliant behavior and complement federal, state, or local agency efforts.

TVA will require a Section 26a permit for all floating cabins, and all TVA permits must comply with the CWA. Section 401 of the CWA prohibits federal agencies from issuing a permit to conduct an activity, including the construction or operation of facilities, which may result in any discharge into navigable waters of the United States unless the applicable state agency has certified that the structure or activity will comply with applicable water quality standards or the certification has been waived. Floating cabin owners must request certification from the relevant certifying agency when

applying for a Section 26a permit, and the certifying agency will determine whether to grant, grant with conditions, deny, or waive the certification. Some certifying agencies may determine to review and make one determination that applies to all floating cabins within its jurisdiction or may review each request for floating cabin permits individually. The respective certifying agencies will make this determination.

TVA will not grant a Section 26a permit for a floating cabin or other obstruction unless a required water quality certification has been provided or waived by the respective certifying agency. The final rule allows a reasonable period of time, not to exceed one year, for the certifying agency to take action. If a certifying agency has not acted within a reasonable period of time and the certification requirement is waived, TVA may then proceed with processing the Section 26a application. This will apply to all Section 26a permit applications, including floating cabins.

Maintenance, Alterations, and Rebuilds

Floating cabins that fall into disrepair can threaten public safety, create a boating hazard, and create litter in reservoirs and along shorelines. Therefore, normal repair and maintenance of floating cabins is encouraged and may be undertaken without TVA's permission. By way of example, maintenance activities include painting; changing the internal walls within the existing enclosed space; replacing shingles, siding, electrical wiring, or plumbing; or adding new encased flotation that complies with the regulations. Maintenance activities do not include any activity that would modify any external walls or the dimensions (length, width, and height) of the floating cabin, including its enclosed or open spaces.

Any alteration to the dimensions or approved plans for a floating cabin will be deemed a structural modification and, if approvable, would require a new permit from TVA. Except for the following three exceptions, which must be approved in writing in advance by TVA, alterations will be prohibited. First, an alteration may be allowed if it is deemed necessary by TVA to comply with health, safety, and environmental standards. Second, TVA may allow changes in the roof pitch or allow open portions of the monolithic frame to be covered but no part of the floating cabin may exceed a total height of 14 feet above the lowest floor level of the floating cabin. Third, TVA may approve enclosure of open space on the monolithic frame of an existing floating cabin if the enclosure will not result in expansion to the dimensions (length, width, and height) of the monolithic frame; in which case, at least 24 contiguous square feet of open space with a minimum width of four feet must be retained on the monolithic frame for unrestricted boarding and a reduction in the footprint of attached structures may be required.

Floating cabins may be rebuilt to the exact same dimensions (length, width, and height), including both enclosed and open spaces, as previously approved by TVA. Owners will be required to apply to TVA 60 days in advance of proposed rebuilding and must receive prior written approval from TVA before beginning construction. TVA may require a new permit for the proposed rebuilding. Construction of the rebuilt floating cabin must be completed within 18 months of TVA's written approval to proceed.

Combined Floating Cabins

To encourage reduction of the number and footprint of floating cabins on the Tennessee River System, TVA is proposing a program that, with a permit obtained in advance, may allow owners to permanently remove multiple existing floating cabins and replace them with a combined floating cabin that meets certain size requirements. Owners must provide evidence that all existing floating cabins to be removed existed on the Tennessee River System as of December 16, 2016, and must remove the existing floating cabins before construction on the combined floating cabin may begin. The permits for the removed floating cabins will be rendered invalid upon their removal. All combined floating cabins must locate within the harbor limits of a commercial marina and have the marina owner's permission. The combined floating cabin must be located on the same reservoir as any of the existing floating cabins that are to be removed in exchange. The maximum size allowable for the new structure would be the lesser of 1,000 square feet or the combined size of the monolithic frames of the removed floating cabins. Any amount of the combined size exceeding 1,000 square feet would be forfeited and could not be transferred to another party or another project. At least 24 contiguous square feet with a minimum width of four feet must remain open to allow for unrestricted boarding of the combined floating cabin. The maximum roof height is 14 feet above the lowest floor level. Attached structures, such as decks, may not be incorporated into the monolithic frame of the combined floating cabin.

Attached Structures

With written approval from TVA, floating cabins may be accompanied by floating attached structures, such as decks, platforms, or Jet Ski ports. All attached structures must be permitted to the floating cabin owner, and the owner must provide evidence of approval from the marina operator. The square footage of attached structures may not be incorporated into the monolithic frame of the floating cabin. Attached structures may not exceed 14 feet in height from the lowest floor level, may not be enclosed, and must comply with 18 CFR 1304.204(p), which prohibits covered second stories. The total footprint of all attached structures for a single floating cabin cannot exceed 400 square feet or the total footprint of the existing attached structures that were part of the floating cabin as of December 16, 2016, whichever is greater. Floating cabins with attached structures as of this date may remain with written approval from TVA, but requests to rebuild or reconfigure the attached structures' square footage must comply with the requirements above. Requests for certain structural modifications or a combined floating cabin will require the square footage of the attached structures to also be reduced to 400 square feet.

Other Changes to Section 26a Regulations

In addition to the changes affecting floating cabins and those for flotation and discharges applicable to all Section 26a permits, the final rule provides other minor amendments to the Section 26a regulations. These include changes to the TVA locations where applications should be addressed, clarification regarding the size of residential water-use facilities in pre-existing developments, and other minor edits for clarity and consistency in the regulations.

Comments on the Proposed Rule and TVA's Responses

TVA received 62 comments during the public review period, all via email. Comments were received from 59 individuals (three individuals sent comments in two separate emails). One email from the Floating Home Alliance Board of Directors represented the views of many floating cabin owners. The following discussion describes a summary of the comments received, provides TVA's response to the comments, and describes changes, if any, made by TVA to the rule based on the comments. TVA appreciates the perspectives, interests, and concerns expressed by all commenters.

1. Comments Related to Other Section 26a Permitted Structures and the Need for Section 26a Regulations

Comment: Some commenters stated that TVA's regulations, standards, and inspections should apply consistently to all structures on TVA reservoirs, particularly residential docks. Commenters asserted that TVA is focusing on something that has never been a problem and docks are far more dangerous, particularly with regard to electrical.

TVA Response: Section 26a of the TVA Act requires the advance written approval of TVA for all floating cabins, private residential docks, and other obstructions. Since 1971, TVA has recognized the necessity to prohibit construction of new nonnavigable houseboats (the early version of floating cabins) and established regulations exclusively for their authorization and management on TVA reservoirs. This was due to their unique nature as a habitable enclosed structure, their included amenities, and their impacts on navigation, public land, and water quality. The WIIN Act allows existing floating cabins to remain on the water only if the owner maintains the structure in accordance with reasonable health, safety, and environmental standards set by the Board.

TVA has previously established corresponding standards for private residential water-use facilities. Subparts C and D of the TVA Section 26a regulations set forth the standards for private water-use facilities, such as boat docks, in substantial detail and restrict these facilities in ways that floating cabins are not restricted. For example, living space or sleeping areas are prohibited; enclosed space is limited to 32 square feet for storage; and toilets, sinks, and electrical appliances are not allowed. Electrical lines and service to private docks must be installed in compliance with all state and local electrical codes (satisfactory evidence of compliance to be provided to TVA upon request); and electrical service must be installed with an electrical disconnect that is located above the 500-year floodplain or flood risk profile whichever is higher, and is accessible during flood events.

Floating cabins raise unique safety and environmental concerns because many, for example, have electrical service supplied by submerged electrical lines, are equipped with household appliances, and generate wastewater.

TVA studied the impact of floating cabins in its EIS using an extensive amount of existing information and additional data collection and analysis to support its finding of potential impacts to human health and the environment from floating cabins. These findings were based on existing information, literature on the known effects on resources, comments by agencies and the public about impacts that they experience, internal TVA resource specialists, and professional judgment. The potential adverse impacts from sewage discharges into public waterways and the risk and potential harm to the public safety from poorly maintained electrical wiring are well established and understood. TVA acknowledged that the severity of current impacts is not well-sourced in available information. However, TVA concluded in its EIS that the severity of impacts will increase if the proliferation of floating cabins is not controlled and operating standards are not established. It is appropriate that TVA acts to address such potential impacts before they become severe.

2. Comments Related to Total Footprint

Comment: Floating cabins are typically made up of multiple sections, the monolithic frame of the main cabin footprint and the floating attached structures, such as decks and walkways. Numerous commenters expressed a desire to combine the total footprint of all components and rebuild to one monolithic frame. The rationale of some commenters was that it is safer to have fewer structures, would make the waterway cleaner from the ''mess of lashed together garbage,'' and is better suited for modern lake activities. Others want to rebuild a floating cabin to a different configuration and change the size of enclosed space while not exceeding the total current footprint. Still others stated that expansions to either the monolithic frame or the attached structures should be allowed.

TVA Response: One of TVA's management goals of the floating cabin program is to prevent an increase in total square footage of the structures. Currently, the total footprint inventory of the monolithic frames of existing floating cabins is over 1.7 million square feet; there is an additional 1 million square feet of attached structure inventory. Allowing the size of the monolithic frames and/or enclosed space to increase will result in more living space and increased impacts to water quality, navigation, and privatization of public waters. For those reasons, floating cabin owners will not be allowed to incorporate the footprint of attached structures into the footprint of the monolithic frame. The final rule does provide an opportunity for floating cabin owners to increase enclosed space on the existing monolithic frame in exchange for a reduction in the footprint of the attached structures. This reduction aligns with the comments about multiple structures pieced together for each floating cabin and the potential risks they pose. TVA also made modifications to the draft rule to clarify that reconfigurations of attached structures could be considered so long as the total footprint did not exceed the specified limits.

3. Comments Opposing a Reduction of Attached Structures Footprint to 250 Square Feet

Comment: TVA's draft rule proposed that floating cabin owners would be required to reduce attached structures to 250 square feet when requesting certain structural modifications or utilizing the combination program. Although many comments were received about the negative effects of multiple attached structures accompanying floating cabins, some commenters opposed this proposal. The commenters' rationale was generally that additional enclosed space on the monolithic frame would not result in an expansion of water space used and, therefore, would not require a reduction of the attached structures. Others argued that 250 square feet of open space was too little to utilize recreationally. Some felt the reduction was a penalty for making improvements and adding living space to the floating cabin.

TVA Response: TVA agrees that floating cabins should be maintained in a good state of repair; however, enlarging enclosed space is not a necessary improvement for enjoyment of existing floating cabins. TVA will not require a reduction in the attached structures that existed as of December 16, 2016, unless the owner requests to make certain modifications to their floating cabin; namely, increasing the enclosed space on the monolithic frame or utilizing the combination program. To counter the impacts of the larger living space and to address concerns of multiple, potentially difficult to manage attached structures, TVA considers this reduction a reasonable compromise. In response to the comments on the draft rule, TVA has increased the maximum footprint for attached structures to 400 square feet.

4. Comments Requesting the Ability To Add Additional Attached Structures

Comment: Multiple commenters expressed a desire to add additional attached structures to existing floating cabins. Jet Ski ports were the most commonly mentioned type of attached

structure. Some commenters stated these additions were minor in size and impacts.

TVA Response: The final rule allows for the addition of attached structures up to a total footprint of 400 square feet. TVA calculates footprint as the rectangular or square area of the attached structure (length times width at the structures widest and longest points). The footprint of each attached structure will be added together to determine the total footprint. Floating cabins accompanied by attached structures of a greater footprint that existed as of December 16, 2016, may remain. Attached structures could be modified to add additional items, such as Jet Ski ports, or different configurations as long as the total footprint remains the same. All items that consume water surface area will be calculated in the total footprint. While the individual impacts from adding additional structures to any individual floating cabin may be minor, the cumulative impacts of these additions could result in a significant increase in square footage of occupied surface area on the reservoirs. One of TVA's goals is to prevent floating cabins from taking up additional square footage on the water.

5. Comments Related to the Combination Program

Comment: Multiple commenters requested that TVA increase the maximum size of a combined floating cabin; some suggested 1,800 square feet, one suggested 2,000 square feet, and one suggested no size limitation.

TVA Response: TVA's goal with the combination program is to reduce the number and footprint of floating cabins on the Tennessee River System, especially those in a state of disrepair. Analysis of TVA's inventory data revealed that a significant majority of floating cabins are smaller than 1,000 square feet. The 1,000-square-foot maximum provides floating cabin owners adequate incentive to utilize the program while staying in line with TVA's goals for the floating cabin program. This size is also consistent with TVA's residential dock footprint standards.

6. Comments Related to Mooring Requirements

Comment: Multiple commenters stated that mooring compliance should be the responsibility of the marina owner, not the floating cabin owner. Others opposed TVA's restriction against securing mooring lines to trees on TVA property.

TVA Response: Multiple mooring systems are utilized across TVA reservoirs that are dependent on topography, reservoir level fluctuations, and level of effort to manage. TVA will permit the mooring obstructions accordingly. For example, in marinas where the floating cabins are moored independently to the bottom of the reservoir and the floating cabin owner is responsible for the purchase and installation of that mooring system, TVA will consider permitting the mooring infrastructure to the floating cabin owner. In other cases where the marina operator installs a mooring grid and each floating cabin anchors to the grid, the components of the mooring system will be permitted to each responsible party (*i.e.,* mooring grid is the responsibility of the marina owner, individual anchors are the responsibility of the floating cabin owner). TVA will continue to prohibit the anchoring of all cables, chains, and poles (for both floating cabins and other water-use facilities) to trees on TVA property. Anchoring to trees on private property will require permission from the private property owner.

7. Comments Related to Wastewater

Comment: Some commenters requested strict enforcement of wastewater discharge regulations. Others agreed that wastewater restrictions should align with local or state requirements. One commenter stated it was impractical to request the collection and/or purification of graywater and believed effects from graywater discharge were a non-issue.

TVA Response: Discharges of blackwater and graywater are regulated by the EPA and the state agencies that are responsible for issuing National Pollutant Discharge Elimination System permits for facilities that discharge sewage or other wastewater. Pursuant to Section 401 of the Clean Water Act, if a structure or activity for which federal approval is sought may result in any discharge into navigable waters of the United States, then the applicant must also request certification from the relevant state certifying agency when applying for a Section 26a permit. If the certifying agency denies certification on appropriate grounds, TVA will not be able to issue the Section 26a permit. If the certifying agency grants certification with appropriate conditions, those conditions are required to be incorporated in the Section 26a permit. If the conditions of that certification are violated or TVA is notified of an unresolved violation by one of these regulatory agencies, TVA is authorized to revoke the Section 26a permit and require removal of the floating cabin in compliance with the WIIN Act.

8. Comments Related to Electrical Requirements

Comment: Some commenters requested clarification on the electrical inspection requirements. Others asked for more details on the equipment necessary to comply with the rule.

TVA Response: In response to the comments, TVA has clarified its intent regarding electrical inspections and clarified the inspection interval. While specific requirements and equipment are subject to National Electric Code standards, TVA will provide examples of equipment and installation options on its website at *www.tva.com/floatingcabins.*

9. Comments Related to Flotation

Comment: Most comments related to flotation were complimentary of TVA's proposal to eliminate all unencased flotation by 2031. A few commenters requested that TVA make this a requirement earlier than 2031.

TVA Response: TVA has prohibited the use of new unencased floatation since 2003. Because this requirement applies to all obstructions (including, but not limited to, residential docks and marina facilities), the final rule includes the proposed deadline. In the event that TVA deems existing flotation is no longer serviceable, it must be replaced within 24 months of notification from TVA.

10. Comments Related to Manufactured Houseboats and Other Structures

Comment: Some commenters expressed concerns with manufactured houseboats being considered floating cabins. They felt that since vessels are already regulated, additional regulation as floating cabins was unnecessary. Others commented on the floating docks and other attached structures associated with some navigable houseboats. Some commenters expressed their desire for only these ''mooring docks'' to be considered floating cabins while arguing that the houseboats moored to the docks should not be regulated as floating cabins, but instead as vessels.

TVA Response: The determination of a structure as a floating cabin is in TVA's sole discretion and its judgment will be guided by criteria defined in previous rule amendments. It is not TVA's intent to regulate vessels. With regard to docks and other water-use facilities not associated with floating cabins, those structures are regulated under TVA's Section 26a jurisdiction and approval is subject to the applicable regulations. In general, individually-

owned ''mooring docks'' or other water-use facilities in marina harbor limits associated with a vessel will not be permitted and will not be considered a floating cabin.

11. Comments Related to the WIIN Act Effective Date

Comment: Some commenters requested that TVA use a later date than December 16, 2016, for the date on which floating cabins and attached structures are considered existing and allowed to remain on the reservoirs if they comply with TVA's regulations. The main reason stated in support of this request is that many floating cabin owners were not aware of the new regulations before this date.

TVA Response: TVA has formally engaged the public and floating cabin community related to its review of these structures since April 30, 2014, when it published the Notice of Intent to assess impacts of floating cabins and invited public comments on scoping. TVA's Draft EIS was published in June 2015, which included proposed standards for regulation. Various opportunities for public engagement and education have been offered, including the Board's public listening sessions. December 16, 2016, is the date selected by Congress when it passed the WIIN Act. Pursuant to the WIIN Act, TVA published this ''cutoff date'' in the prior Section 26a rule amendments.

12. Comments Related to Fees

Comment: Commenters had questions and requested clarification about the fees TVA will charge. One commenter stated that TVA is collecting an excessive amount of money for registration, transfer, alteration, combination, relocation, and yearly fees with no transparency or accountability.

TVA Response: TVA has standard permit application fees that apply to all Section 26a requests, including floating cabins. Currently, the standard permit application fee for a minor activity, which includes most floating cabins, is $500. Modifications to an existing obstruction require a new permit, and the application fee is $500. The application fee for a change in ownership with no associated modifications is $250. Requests for major construction activities are assessed a $1,000 application fee and are full cost recovery. There is no fee for registration of a floating cabin.

Section 26a permit application fees are governed by TVA's Administrative Cost Recovery regulations (18 CFR part 1310) and are assessed per application, regardless of the number of items requested in a single application (there is not an additional fee for each item requested). While TVA was granted the authority by the WIIN Act to levy a compliance fee for floating cabins, TVA will not establish that charge at this time.

13. Comments in Support of the Final Rule

Comment: Numerous commenters expressed general support for the final rule amendments. Many expressed appreciation for TVA's collaborative approach at managing the Floating Cabin Program and drafting reasonable regulations. Others commented that TVA's documentation, inventory, registration, and inspection of floating cabins is an appropriate way to ensure owners are held accountable for properly maintaining their structures. Others emphasized that TVA should regularly and fairly enforce the regulations.

TVA Response: TVA acknowledges these comments and agrees with the need to have reasonable standards and rules, have consistent enforcement of regulations, and avoid overly burdensome requirements. TVA appreciates the input and feedback received from the stakeholder group.

III. Administrative Requirements

A. Unfunded Mandates Reform Act, National Environmental Policy Act, and Various Executive Orders Including E.O. 12866, Regulatory Planning and Review; E.O. 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations; E.O. 13045, Protection of Children From Environmental Health Risks; E.O. 13132, Federalism; E.O. 13175, Consultation and Coordination With Indian Tribal Governments; E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, and Use; E.O. 12988, Civil Justice Reform Act; and E.O. 13771, Reducing Regulation and Controlling Regulatory Costs

In determining what action to take with respect to floating cabins, TVA prepared an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act. This EIS assessed the environmental and socioeconomic impacts of different policies to address the proliferation of floating cabins on the Tennessee River System. TVA released a draft of this EIS for public comment in June 2015 and held four public meetings and a webinar to provide information about its analyses and to facilitate public involvement. The final EIS and associated documents can be found at *https://www.tva.com/floatingcabins.* One of the alternatives evaluated by TVA in the EIS was to approve and issue permits for the mooring of existing floating cabins that meet new minimum standards and to prohibit new floating cabins. TVA previously published a final rule that clarified the types of structures that TVA will regulate as a floating cabin and prohibited new floating cabins from mooring on the Tennessee River System. This final rule establishes minimum health, safety, environmental, and permitting standards that existing floating cabins will be required to meet. TVA's analysis of this alternative in the EIS determined that prohibiting new floating cabins and applying new standards would result in minor beneficial impacts to many resource areas (*e.g.,* water quality, recreation, cultural resources), but that the alternative may result in significant economic effects to some floating cabin owners or marina operators, depending on the extent to which their floating cabin would need to be updated to meet the new standards.

This final rule is a ''significant regulatory action'' under the criteria set forth in section 3(f) of Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). Accordingly, this action was subject to review by the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB''). TVA has determined it will not have an economically significant annual effect of $100 million or more or result in expenditures of $100 million in any one year by state, local, or tribal governments or by the private sector. TVA estimates there are approximately 2,200 floating cabins on the Tennessee River System. TVA's estimate on compliance costs include the following ranges for each Floating Cabin provision: (1) Wastewater: $4,000–$8,000; (2) flotation: $10,000–$15,000; (3) mooring: $3,000–$5,000; (4) electrical: $250–$5,000. Most of the costs described are one-time investments, and not every floating cabin will require modifications in each area as many are already in compliance with one or more of the new provisions. As a result, this final rule will not exceed $100 million in annual impact.

This final rule contains no federal mandates for state, local, or tribal government or for the private sector. The rule will not have a substantial direct effect on the States or Indian tribes, on the relationship between the Federal Government and the States or Indian tribes, or on the distribution of power and responsibilities between the Federal Government and States or

Indian tribes. Nor will the rule have concerns for environmental health or safety risks that may disproportionately affect children, have significant effect on the supply, distribution, or use of energy, or disproportionally impact low income or minority populations.

Unified development and regulation of the Tennessee River System through an approval process for obstructions across, along, or in the river system and management of United States-owned land entrusted to TVA are federal functions for which TVA is responsible under the TVA Act, as amended. In general, the final rule updates or clarifies TVA's regulations relating to the standards that floating cabins will be required to meet in order to remain on the Tennessee River System. The final rule will establish a charge for individuals or entities that request certain services from TVA relating to use of its property, reservoirs, and permitting for a floating cabin. Absent a request for these services for a Section 26a permit, no entity or individual would be forced to pay a charge. None of the charges would be applied retroactively. The final rule also amends TVA's regulations to clarify a date certain by which all unencased flotation must be removed from TVA's reservoirs. The proposal also amends TVA's regulations to establish a time period after which TVA will deem a state's water quality certification decision to be waived and proceed with processing of Section 26a permit applications. TVA will continue to appropriately review specific requests in accordance with applicable laws, regulations, and Executive Orders.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605, TVA is required to prepare a regulatory flexibility analysis unless the head of the agency certifies that the proposal will not have a significant economic impact on a substantial number of small entities. TVA's Chief Executive Officer has certified that this proposal will not have a significant economic impact on a substantial number of small entities. The statute defines ''small entity'' as a ''small business,'' ''small organization'' (further defined as a ''not-for-profit enterprise''), or a ''small governmental jurisdiction.'' Most floating cabins are owned by individuals and not businesses, not-for-profit enterprises, or small governmental jurisdictions, and therefore relatively few ''small entities'' will be affected by TVA's proposal. Even if the final rule tangentially impacts marinas that accommodate floating cabins, this represents only 29% of marinas on TVA reservoirs. Accordingly, this rule will not have a significant impact on a substantial number of small entities; no regulatory flexibility analysis is required; and TVA's Chief Executive Officer has made the requisite certification.

C. Paperwork Reduction Act Title of Information Collection

Section 26a Permit Application.

OMB Approval Number: 3316–0060.

This rule contains information collection requirements for registration and permitting of floating cabins, which were approved by the Office of Management and Budget (OMB) on June 18, 2019.

List of Subjects in 18 CFR Part 1304

Administrative practice and procedure, Natural resources, Navigation (water), Rivers, Water pollution control.

For the reasons set out in the preamble, the Tennessee Valley Authority amends 18 CFR part 1304 of the Code of Federal Regulations as follows:

PART 1304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES AND OTHER ALTERATIONS

■ 1. The authority citation for 18 CFR Part 1304 continues to read as follows:

Authority: 16 U.S.C. 831–831ee.

■ 2. Amend § 1304.2 by:
■ a. Revising paragraphs (a) and (b);
■ b. Revising the first sentence of paragraph (c)(1) introductory text;
■ c. Revising paragraph (c)(1)(i);
■ d. Revising paragraph (c)(1)(ii)(A);
■ e. Revising the first sentence of paragraph (c)(2)(i) introductory text;
■ f. Revising paragraph (c)(2)(ii)(A); and
■ g. Revising paragraph (d).

The additions and revisions read as follows:

§ 1304.2 Application.

(a) If the facility is to be built on TVA land, the applicant must, in addition to the other requirements of this part, own the fee interest in or have an adequate leasehold or easement interest of sufficient tenure to cover the normal useful life of the proposed facility in land immediately adjoining the TVA land. If the facility is to be built on private land, the applicant must own the fee interest in the land or have an adequate leasehold or easement interest in the property where the facility will be located. If the facility is an existing floating cabin, it must meet the requirements of subpart B. TVA recognizes, however, that in some cases private property has been subdivided in a way that left an intervening strip of land between the upland boundary of a TVA flowage easement and the waters of the reservoir, or did not convey to the adjoining landowner the land underlying the waters of the reservoir. In some of these situations, the owner of the intervening strip or underlying land cannot be identified or does not object to construction of water-use facilities by the adjacent landowner. In these situations, TVA may exercise its discretion to permit the facility, provided there is no objection from the fee owner of the intervening strip or underlying land. A TVA permit conveys no property interest. The applicant is responsible for locating the proposed facility on qualifying land and ensuring that there is no objection from any owner of such land. TVA may require the applicant to provide appropriate verification of ownership and lack of objection, but TVA is not responsible for resolving ownership questions. In case of a dispute, TVA may require private parties requesting TVA action to grant or revoke a TVA permit to obtain a court order declaring respective ownership and/or land rights. TVA may exercise its discretion to permit a facility on TVA land that is located up or downstream from the land which makes the applicant eligible for consideration to receive a permit.

(b) Applications shall be addressed to Tennessee Valley Authority, at the appropriate Regional Watershed Office location as listed on the application and on TVA's website. To contact an office, call 1–800–882–5263 or email *plic@tva.gov.* Applications are available on TVA's website.

(c) * * *

(1) * * * By way of example only, minor facilities may include: boat docks, piers, rafts, boathouses, fences, steps, gazebos, and floating cabins.

* * *

(i) Completed application form. One copy of the application shall be prepared and submitted. Application forms are available on TVA's website. The application shall include a project description which indicates what is to be built, removed, or modified, and the sequence of the work. Applications for floating cabins shall include written evidence that the floating cabin was located or moored on the Tennessee River System as of December 16, 2016, and detailed descriptions of mooring method, how electrical service is provided, and how wastewater is managed. An application to relocate a floating cabin to a marina shall include

evidence of approval from the accepting marina operator.

(ii) * * *

(A) Be prepared electronically or on paper suitable for reproduction (no larger than 11 by 17 inches).

* * * * *

(2) * * *

(i) * * * Application forms are available on TVA's website. * * *

(ii) * * *

(A) Be prepared electronically or on paper suitable for reproduction (no larger than 11 by 17 inches).

(d) Discharges into navigable waters of the United States. If construction, maintenance, or operation of the proposed structure or any part thereof, or the conduct of the activity in connection with which approval is sought may result in any discharge into navigable waters of the United States, applicant shall also submit with the application, in addition to the material required by paragraph (c) of this section, a copy of the request for certification from the state in which such discharge would originate, or if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge would originate, or from the Environmental Protection Agency, that such state or interstate agency or the Environmental Protection Agency has determined that the applicant's proposed activity will be conducted in a manner that will comply with applicable water quality standards. The applicant shall further submit such supplemental and additional information as TVA may deem necessary for the review of the application, including, without limitation, information concerning the amounts, chemical makeup, temperature differentials, type and quantity of suspended solids, and proposed treatment plans for any proposed discharges. No section 26a permit will be granted until required certification has been obtained or has been waived. If a certifying agency has not acted within a reasonable period of time, not to exceed one year, of an applicant's request for certification from the respective agency and certification is waived, TVA will proceed with processing of the section 26a permit application.

■ 3. Amend § 1304.10 by:

■ a. Revising paragraph (b)(2) and

■ b. Adding paragraph (c).

The addition and revision read as follows:

§ 1304.10 Change in ownership of approved facilities or activities

* * * * *

(b) * * *

(2) Obtain TVA approval for any repairs that would alter the size of the facility, create a structural modification, or for any new construction.

(c) Change in ownership of a floating cabin is addressed in § 1304.102.

■ 4. Revise § 1304.100 to read as follows:

§ 1304.100 Scope and intent.

This subpart prescribes requirements for floating cabins on the Tennessee River System. Floating cabins as applied to this subpart include existing nonnavigable houseboats approved by TVA and other existing structures, whose design and use is primarily for human habitation or occupation and not for navigation or transportation on the water. Floating cabins that were not located or moored on the Tennessee River System as of December 16, 2016, shall be deemed new floating cabins. New floating cabins are prohibited and subject to the removal provisions of this part and Section 9b of the TVA Act. No new floating cabins shall be moored, anchored, or installed on the Tennessee River System. Floating cabins that were located or moored in the Tennessee River System as of December 16, 2016, shall be deemed existing floating cabins. Existing floating cabins may remain moored on the Tennessee River System provided they remain in compliance with the rules in this part and obtain a permit from TVA issued after October 12, 2021. All permits for nonnavigable houseboats or floating cabins that were not located on the Tennessee River System as of December 16, 2016, are terminated. Unless otherwise noted, the term floating cabin refers to the primary structure on the monolithic frame as well as all attached structures.

■ 5. Revise § 1304.101 to read as follows:

§ 1304.101 Floating cabins.

(a)(1) Floating cabins include nonnavigable houseboats approved by TVA as of December 16, 2016, and other floating structures moored on the Tennessee River System as of this date and determined by TVA in its sole discretion to be designed and used primarily for human habitation or occupation and not designed and used primarily for navigation or transportation on the water as of December 16, 2016. If, at any time, the floating cabin is modified such that it no longer meets the criteria to be deemed a floating cabin, the approval for that existing floating cabin will be terminated. TVA's judgment will be guided by, but not limited to, the following factors:

(i) Whether the structure is usually kept at a fixed mooring point;

(ii) Whether the structure is actually used on a regular basis for transportation or navigation;

(iii) Whether the structure has a permanent or continuous connection to the shore for electrical, plumbing, water, or other utility service;

(iv) Whether the structure has the performance characteristics of a vessel typically used for navigation or transportation on water;

(v) Whether the structure can be readily removed from the water;

(vi) Whether the structure is used for intermittent or extended human-habitation or occupancy;

(vii) Whether the structure clearly has a means of propulsion, and appropriate power/size ratio;

(viii) Whether the structure is safe to navigate or use for transportation purposes.

(2) That a structure could occasionally move from place to place, or that it qualifies under another federal or state regulatory program as a vessel or boat, are factors that TVA also will consider but would not be determinative. Floating cabins are not recreational vessels to which § 1304.409 applies.

(b) Owners of floating cabins are required to register the floating cabin with TVA by January 10, 2022. Floating cabin owners shall include the following information with their registration: Clear and current photographs of the structure; a drawing or drawings showing in reasonable detail the size and shape of the floating cabin (length, width, and height) and attached structures, such as decks or slips (length, width, and height); and a completed and signed TVA registration form. The completed TVA registration form shall include the mailing and contact information of the owner(s); the TVA permit or TVA-issued numbers (when applicable); the mooring location of the floating cabin; how the floating cabin is moored; how electrical service is provided; how wastewater and sewage are managed; and an owner's signature.

(c) All floating cabins shall comply with the rules contained in this part and make application for a section 26a permit by October 1, 2024.

(d) Existing floating cabins may remain on the Tennessee River System provided they stay in compliance with the rules contained in this part and pay any necessary and reasonable fees levied by TVA to ensure compliance with TVA's regulations, in accordance with section 9b of the TVA Act.

(e) Existing floating cabins must be moored at one of the following locations:

(1) To the bank of the reservoir at locations where the owner of the floating cabin is the owner or lessee (or the licensee of such owner or lessee) of the proposed mooring location provided the floating cabin was moored at such location as of December 16, 2016;

(2) At locations described by § 1304.201(a)(1), (2), and (3) provided the floating cabin was moored at such location as of December 16, 2016;

(3) To the bank of the reservoir at locations where the owner of the floating cabin obtained written approval from TVA pursuant to subpart A of this part authorizing mooring at such location as of December 16, 2016; or

(4) Within the designated and approved harbor limits of a commercial marina that complies with § 1304.404. As provided in § 1304.404, TVA may adjust harbor limits and require relocation of an existing floating cabin within the harbor limits.

(f) Applications for mooring of a floating cabin outside of designated harbor limits will be disapproved if TVA determines that the proposed mooring location would be contrary to the intent of this subpart.

(g) A floating cabin moored at a location approved pursuant to this subpart shall not be relocated and moored at a different location without a permit from TVA, except for movement to a new location within the designated harbor limits of the same commercial marina. Existing floating cabins may only relocate to the harbor limits of a commercial marina that complies with § 1304.404 on the same reservoir where the floating cabin was moored as of December 16, 2016. Relocation of a floating cabin to another TVA reservoir is prohibited.

(h)(1) Existing floating cabins shall be maintained in a good state of repair and may be maintained without additional approval from TVA. By way of example, these activities may include painting, changing the internal walls within the existing enclosed space, replacing the shingles, siding, electrical wiring, or plumbing, or adding new flotation in compliance with § 1304.400. Repair and maintenance activities shall not modify the dimensions (length, width, and height) of the floating cabin, any external walls, or the enclosed or open space.

(2) Any alterations to the dimensions or approved plans for an existing floating cabin shall be deemed a structural modification and shall require prior written approval from TVA. All expansions in length, width, or height are prohibited, except under the following circumstances if approved in writing in advance by TVA:

(i) TVA may allow alterations necessary to comply with health, safety, and environmental standards;

(ii) TVA may allow changes in roof pitch or allow open portions of the monolithic frame to be covered, but no part of the floating cabin may exceed a total height of 14 feet above the lowest floor level; or

(iii) TVA may allow enclosure of existing open space on the monolithic frame of the existing floating cabin if the enclosure will not result in expansion to the dimensions (length, width, and height) of the monolithic frame, subject to § 1304.101(i). At least 24 contiguous square feet of open space with a minimum width of four feet shall be maintained on the monolithic frame for unrestricted boarding.

(3) Owners must submit an application to TVA 60 days in advance of proposed rebuilding of a floating cabin or a significant portion of a floating cabin. The owner shall not begin construction until prior written acknowledgment from TVA is received. Plans for removal of the existing floating cabin or portions to be rebuilt shall be acknowledged in writing by TVA before removal occurs, and the removal shall be at the owner's expense before construction of the rebuild may begin. The owner shall provide evidence of approval from the marina operator to rebuild within the marina. TVA may require a new permit for the proposed rebuilding. Construction of the rebuilt floating cabin must be completed within 18 months. The rebuilt floating cabin shall match the exact configuration and dimensions (length, width, and height) of both the total floating cabin and the enclosed and open space as approved by TVA; attached structures are subject to § 1304.101(i).

(4) TVA may allow the exchange of multiple existing floating cabins removed from the Tennessee River System for a single combined floating cabin under the following conditions:

(i) Prior written approval from TVA shall be obtained before taking any actions. Evidence shall be provided to TVA that all existing floating cabins to be exchanged were located on the Tennessee River System as of December 16, 2016.

(ii) Plans for removal of the existing floating cabin(s) shall be approved in writing by TVA before removal occurs, and the floating cabin(s) shall be removed at the owner's expense before construction of the new combined floating cabin may begin. Approvals of the existing floating cabins to be exchanged will be terminated. Construction on the new combined floating cabin must be completed within 18 months.

(iii) The combined floating cabin shall be moored within the harbor limits of a commercial marina that complies with § 1304.404. The owner shall provide evidence of approval from the marina operator to locate within the marina. The combined floating cabin must be located on the same reservoir as any of the existing floating cabins to be exchanged.

(iv) The maximum total size of the monolithic frame of the combined floating cabin is 1,000 square feet or the sum of the square footage of the monolithic frames of the existing exchanged floating cabins, whichever is less. At least 24 contiguous square feet with a minimum width of four feet must remain open to allow for unrestricted boarding of the combined floating cabin. Any square footage of the existing exchanged floating cabins that exceeds the maximum allowable total size of the combined floating cabin is not transferrable to other projects or owners.

(v) The maximum height of any part of the combined floating cabin is 14 feet above the lowest floor level.

(vi) Floating attached structures, such as decks or platforms, are subject to § 1304.101(i).

(i) With written approval from TVA, floating cabins may be accompanied by floating attached structures subject to the following:

(1) A single floating cabin may have multiple floating attached structures. The footprint of each attached structure will be measured as a rectangular or square area. The total footprint of all attached structures for a single floating cabin cannot exceed 400 square feet or the total footprint of the existing attached structures that were part of the floating cabin as of December 16, 2016, whichever is greater.

(2) The footprint of the attached structures shall not be incorporated into the footprint of the monolithic frame of the floating cabin.

(3) Attached structures shall not exceed 14 feet in height from the lowest floor level, shall not be enclosed, and shall comply with § 1304.204(p).

(4) All attached structures must be permitted to the floating cabin owner. The owner shall provide evidence of approval from the marina operator for the attached structures.

(5) Existing attached structures that were part of the floating cabin as of December 16, 2016, may remain with written approval from TVA. Any requests to rebuild or reconfigure attached structures must comply with

§ 1304.101(i)(1) through (4). Attached structures associated with a request for a structural modification as described in § 1304.101(h)(2)(iii) or a combined floating cabin as described in § 1304.101(h)(4) shall not exceed a total footprint of 400 square feet.

(j) Any floating cabin not in compliance with this part is subject to the applicable removal provisions of § 1304.406 and section 9b of the TVA Act.

■ 6. Revise § 1304.102 to read as follows:

§ 1304.102 Numbering of floating cabins and change in ownership.

(a) All approved floating cabins and attached structures shall display a number assigned by TVA. The owner of the floating cabin shall paint or attach a facsimile of the number on a readily visible part of the outside of the facilities in letters at least three inches high. If TVA provided a placard or tag, it must be displayed on a readily visible part of the outside of the floating cabin.

(b) When there is a change in ownership of the floating cabin, the new owner shall notify TVA within 60 days. Upon application to TVA by the new owner, the new owner may continue to use the existing floating cabin or carry out permitted activities pending TVA's decision on reissuance of the permit. TVA shall reissue the permit upon determining the floating cabin is in good repair, is the same configuration and dimensions (length, width, and height) of both the floating cabin and the enclosed and open space as previously permitted, moored in the same location or in the harbor limits of the same commercial marina, and complies with the conditions of the previous approval and the requirements of this subpart.

■ 7. Add § 1304.103 to read as follows:

§ 1304.103 Health, safety, and environmental standards.

(a) *Wastewater.* Floating cabins shall comply with § 1304.2(d) with regard to discharges into navigable waters of the United States. All discharges, sewage, and wastewater, and the pumping, collection, storage, transport, and treatment of sewage and wastewater shall be managed in accordance with all applicable federal, state, and local laws and regulations. If a floating cabin is documented to be in violation of any federal, state, or local discharge or water quality regulation by the respective regulatory agency, TVA is authorized to revoke the permit and require removal of the floating cabin from the Tennessee River System if the violation is not corrected as specified by the regulatory agency in accordance with the agency's requirements.

(b) *Flotation.* Floating cabins shall comply with the requirements for flotation devices and material contained in § 1304.400.

(c) *Mooring.* All floating cabins must be moored in such a manner as to:

(1) Avoid obstruction of or interference with navigation, flood control, public lands, or reservations;

(2) Avoid adverse effects on public lands or reservations;

(3) Prevent the preemption of public waters when moored in permanent locations outside of the approved harbor limits of commercial marinas;

(4) Protect land and land rights owned by the United States alongside and subjacent to TVA reservoirs from trespass and other unlawful and unreasonable uses;

(5) Maintain, protect, and enhance the quality of the human environment;

(6) Ensure visibility of all mooring cables; and

(7) Comply with § 1304.205(c).

(d) *Electrical.* Floating cabins shall comply with all applicable federal, state, and local laws and regulations regarding electrical wiring and equipment. If a floating cabin is documented to be in violation of any federal, state, or local electrical standard or regulation by the respective regulatory agency, TVA is authorized to revoke the permit and require removal of the floating cabin from the Tennessee River System if the violation is not corrected as specified by the regulatory agency in accordance with the agency's requirements. Floating cabins shall comply with § 1304.209(c)(2).

(e) *Electrical certifications.* Floating cabin owners shall provide, in a form acceptable to TVA, certification of compliance with the electrical standards of paragraphs (e)(1) and (2) of this section with their initial permit application, no later than October 1, 2024, and by October 1 of every even-numbered year thereafter. The certification must be signed by a licensed electrical engineer, a state-certified electrical inspector, or a person certified by the International Association of Electrical Inspectors, the International Code Council, or an equivalent organization.

(1) All floating cabins must meet the following minimum requirements for ground fault protection:

(i) The feeder(s) from electrical service on the shore to the floating cabin shall have ground fault protection not exceeding 100 milliamps.

(ii) If the floating cabin has a transformer, the transformer shall have ground fault protection not exceeding 100 milliamps at the first overcurrent protection device on the secondary side of the transformer. The conductors from the transformer enclosure to the overcurrent protection device shall not exceed ten feet and shall be installed in a raceway.

(iii) If the floating cabin is located in a marina and the feeder supplying the floating cabin is part of the marina's electrical system, the feeder shall have ground fault protection not exceeding 100 milliamps.

(iv) If another source of electrical power is utilized on a floating cabin, such as but not limited to a generator, photovoltaic cell, or wind turbine, the source of electrical power shall have ground fault protection not exceeding 100 milliamps at the first overcurrent protection device for each source. For permanently installed sources, the conductors from the source to the first overcurrent protection device shall not exceed ten feet and shall be installed in a raceway.

(v) The floating cabin owner may determine the devices that are utilized to achieve the ground fault protection requirement provided such devices are labeled and listed from a third-party testing laboratory for the purpose of the installation.

(2) If power is supplied to the floating cabin by an underwater cable, the portable power cable shall, at a minimum, meet the requirements of National Fire Protection Association 70 Article 555.13 (A)(2) and (B)(4) of the 2017 National Electrical Code. For new portable power cables installed after October 12, 2021, the cables shall meet the requirements of the most recent version of the National Electric Code.

■ 8. Amend § 1304.204 by revising paragraphs (a) and (i) to read as follows:

§ 1304.204 Docks, piers, and boathouses.

* * * * *

(a) Docks, piers, boathouses, and all other residential water-use facilities shall not exceed a total footprint area of 1,000 square feet, unless the proposed water-use facility will be located in an area of preexisting development. For the purpose of this regulation, ''preexisting development'' means either: The water-use facility will be located in a subdivision recorded before November 1, 1999, and TVA permitted at least one water-use facility in the subdivision prior to November 1, 1999; or if there is no subdivision, where the water-use facility will be located within a quarter-mile radius of another water-use facility that TVA permitted prior to November 1, 1999. Water-use facilities located in an area of preexisting development shall

not exceed a total footprint area of 1,800 square feet.

* * * * *

(i) Where the applicant owns or controls less than 50 feet of property adjoining TVA shoreland, the overall width of the facilities permitted along the shore shall be limited to ensure sufficient space to accommodate other property owners.

* * * * *

■ 9. Amend § 1304.211 by revising paragraph (d)(2) to read as follows:

§ 1304.211 Change in ownership of grandfathered structures or alterations.

* * * * *

(d) * * *

(2) Obtain TVA approval for any repairs that would alter the size of the facility, create a structural modification, for any new construction, or for removal of trees or other vegetation (except for mowing of lawns established prior to November 1, 1999).

■ 10. Amend § 1304.212 by revising paragraph (a)(1) to read as follows:

§ 1304.212 Waivers.

(a) * * *

(1) The property is within a preexisting development as defined in § 1304.204(a); and

* * * * *

■ 11. Amend § 1304.302 by revising the first sentence to read as follows:

§ 1304.302 Vegetation management on flowage easement shoreland.

Removal, modification, or establishment of vegetation on privately-owned shoreland subject to a TVA flowage easement generally does not require approval by TVA. * * *

■ 12. Revise § 1304.400(a) to read as follows.

§ 1304.400 Flotation devices and material, all floating structures.

(a)(1) By December 31, 2031, all unencased (*i.e.,* Styrofoam) flotation shall have been removed and replaced with flotation consistent with this subpart. Structures continuing to use unencased flotation after December 31, 2031, will be subject to removal under § 1304.406. Use or reuse of unencased flotation for repairs, replacement, or new construction is prohibited. Existing unencased flotation (secured in place prior to September 8, 2003) may continue to be used until December 31, 2031, so long as it remains attached and in good condition in TVA's judgement. If, in TVA's judgement, the flotation is no longer serviceable, it shall be replaced with approved flotation within 24 months upon notification from TVA.

(2) All flotation for docks, boat mooring buoys, floating cabins and attached structures, and other water-use structures and facilities, shall be of materials commercially manufactured for marine use. Flotation materials shall be fabricated so as not to crack, peel, fragment, become water-logged, or be subject to loss of beads. Flotation materials shall be resistant to puncture, penetration, damage by animals, and fire. Any flotation within 40 feet of a line carrying fuel shall be 100 percent impervious to water and fuel. Use of plastic, metal, or other previously used drums or containers for encasement or flotation purposes is prohibited, except as provided in paragraph (c) of this section for certain metal drums already in use. For any flotation devices or material, repair or replacement is required when it no longer performs its designated function or it exhibits any of the conditions prohibited by this subpart.

* * * * *

■ 13. Revise the first sentence of § 1304.406 to read as follows.

§ 1304.406 Removal of unauthorized, unsafe and derelict structures or facilities.

If, at any time, any dock, wharf, boathouse (fixed or floating), floating cabin, outfall, aerial cable or other fixed or floating structure or facility (including any navigable boat or vessel that has become deteriorated or is a potential navigation hazard or impediment to flood control) is anchored, installed, constructed or moored in a manner inconsistent with this part, or is not constructed in accordance with TVA's approval or plans approved by TVA, or is not maintained or operated so as to remain in accordance with this part and such approval or plans, or is not kept in a good state of repair and in good, safe and substantial condition, and the owner or operator thereof fails to repair or remove such structure (or operate or maintain it in accordance with such approval or plans) within ninety (90) days after written notice from TVA to do so, TVA may cancel any license, permit, or approval and remove such structure, and/or cause it to be removed, from the Tennessee River system and/or lands in the custody and control of TVA. * * *

■ 14. Amend § 1304.412 by:

■ a. Adding in alphabetical order the definition of ''Attached structure'';

■ b. Revising the definition of ''Backlot:;

■ c. Adding in alphabetical order the definition of ''Combined floating cabin'';

■ d. Revising the definitions for ''Community outlot'', ''Enclosed structure'', ''Existing floating cabin'';

■ e. Adding in alphabetical order the definition of ''Floating cabin,''

■ f. Revising the definition of ''Footprint'';

■ g. Adding in alphabetical order the definition of ''Monolithic frame'';

■ h. Revising the definitions of ''New floating cabin,'' and ''Rebuilding''; and

■ i. Adding in alphabetical order the definition of ''Structural Modification''.

The additions and revisions read as follows:

§ 1304.412 Definitions.

* * * * *

Attached structure means a floating deck, walkway, platform, slip, Jet Ski port, or other floating structure that supports the use of a floating cabin and can be detached from the floating cabin. Attached structures are not considered part of the monolithic frame of a floating cabin.

* * * * *

Backlot means a residential lot not located adjacent to the shoreland but located in a subdivision associated with the shoreland.

* * * * *

Combined floating cabin means a single floating cabin that replaces two or more existing floating cabins.

* * * * *

Community outlot means a subdivision lot located adjacent to the shoreland and designated by deed, subdivision covenant, or recorded plat as available for use by designated property owners within the subdivision.

* * * * *

Enclosed structure means a structure enclosed overhead and on all sides so as to keep out the weather. Floor space shall not be considered enclosed if three of the four walls are constructed of wire or screen mesh from floor to ceiling, and the wire or screen mesh leaves the interior of the structure open to the weather.

Existing floating cabin means a floating cabin that was located or moored on the Tennessee River System as of December 16, 2016.

Floating cabin means a nonnavigable houseboat approved by TVA as of December 16, 2016, and other floating structures moored on the Tennessee River System and determined by TVA in its sole discretion to be designed and used primarily for human habitation or occupation and not designed and used primarily for navigation or transportation on the water.

* * * * *

Footprint means the total water surface area of either a square or rectangular shape occupied by a floating

cabin or adjoining property owner's dock, pier, boathouse, or boatwells.

* * * * *

Monolithic frame means the supporting floor structure of a floating cabin that is constructed as one rigid component. It specifically excludes any attached structures, such as decks and platforms, regardless of when they were connected or how they are connected (*e.g.,* pins, hinges, bolts, ropes).

New floating cabin means a floating cabin that was not located or moored on the Tennessee River System as of December 16, 2016.

* * * * *

Rebuilding means replacement of all or a significant portion of an approved obstruction to the same configuration, total footprint, and dimensions (length, width, and height of the obstruction or enclosed or open space) as the approved plans, standards, and conditions of the section 26a permit.

* * * * *

Structural modification means any alteration to the dimensions (length, width, and height of the obstruction or enclosed or open space), footprint, or approved plans of a structure.

* * * * *

Allen A. Clare,

Vice President, River and Resources Stewardship.

[FR Doc. 2021–19098 Filed 9–9–21; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[TD 9953]

RIN 1545–BQ09

Recapture of Excess Employment Tax Credits Under the American Relief Plan Act of 2021

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document sets forth temporary regulations under sections 3131, 3132, and 3134 of the Internal Revenue Code (Code), added by sections 9641 and 9651 of the American Rescue Plan Act of 2021. These temporary regulations authorize the assessment of any erroneous refund of the tax credits paid under sections 3131, 3132 (including any increases in those credits under section 3133), and 3134 of the Code. The text of these temporary regulations also serves as the text of the proposed regulations (REG–109077–21) set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES:

Effective date: These temporary regulations are effective on September 10, 2021.

Applicability date: For date of applicability, *see* §§ 31.3131–1T, 31.3132–1T, and 31.3134–1T of these temporary regulations.

FOR FURTHER INFORMATION CONTACT: Concerning these temporary regulations, NaLee Park at 202–317–6798.

SUPPLEMENTARY INFORMATION:

Background

The Families First Coronavirus Response Act (Families First Act), Public Law 116–127, 134 Stat. 178 (March 18, 2020), the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116–136, 134 Stat. 281 (March 27, 2020), the COVID-related Tax Relief Act of 2020 (Tax Relief Act), enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021, Public Law 116–260, 134 Stat.1182 (December 27, 2020), the Taxpayer Certainty and Disaster Relief Tax Act of 2020 (Relief Act), enacted as Division EE of the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021 (the ARP), Public Law 117–2, 135 Stat. 4 (March 11, 2021), provide relief to taxpayers from economic hardships resulting from the Coronavirus Disease 2019 (COVID–19). As described below, this relief includes employment tax credits for certain wages paid by employers.

I. Paid Sick and Family Leave Credits

The Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA), enacted as Divisions E and C of the Families First Act, respectively, generally required employers with fewer than 500 employees to provide paid leave due to certain circumstances related to COVID–19. Sections 7001 and 7003 of the Families First Act generally provided that non-governmental employers subject to the paid leave requirements under EPSLA and EFMLEA were entitled to fully refundable tax credits to cover the wages paid for leave taken for those periods of time during which employees are unable to work or telework for specified reasons related to COVID–19, plus allocable qualified health plan expenses.

Although the requirement to provide employees with paid leave under EPSLA and EFMLEA expired December 31, 2020, the tax credits for qualified leave wages paid for periods of leave taken beginning on April 1, 2020, and ending on December 31, 2020, were extended by the Tax Relief Act through March 31, 2021, for paid leave that would have satisfied the requirements of EPSLA and EFMLEA.

The ARP added sections 3131 through 3133 of the Code, which extend the refundable tax credits for paid leave to non-governmental employers with fewer than 500 employees, and certain governmental entities [1] without regard to the number of employees, that provide paid sick and family leave for specified reasons related to COVID–19 with respect to periods of leave beginning on April 1, 2021, through September 30, 2021. The paid sick leave credit and the paid family leave credit (collectively, ''paid sick and family leave credits'') under sections 3131 through 3133 are available to eligible employers that provide employees with paid leave that would have satisfied the requirements of EPSLA and EFMLEA, with certain modifications made pursuant to the ARP.

Under section 3131, a credit is available to eligible employers who pay qualified sick leave wages to an employee for up to 80 hours leave provided during the period beginning April 1, 2021, and ending September 30, 2021, if the employee is unable to work or telework because the employee:

(1) Is subject to a Federal, State, or local quarantine or isolation order related to COVID–19;

(2) has been advised by a health care provider to self-quarantine due to concerns related to COVID–19;

(3) is experiencing symptoms of COVID–19 and seeking a medical diagnosis, is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID–19 and the employee has been exposed to COVID–19 or the employee's employer has requested the test or diagnosis, or the employee is obtaining immunization related to COVID–19 or recovering from any injury, disability, illness, or condition related to the immunization;

(4) is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID–19, or has been advised by a

[1] Section 9641 of the ARP added sections 3131(f)(5) and 3132(f)(5) to the Code, which extend paid sick and family leave credits to certain governmental employers (without regard to the number of employees). However, the credits are not allowed for the government of the United States, or any agency or instrumentality of the United States government, except for an organization described in section 501(c)(1) of the Code and exempt from tax under section 501(a) of the Code.

health care provider to self-quarantine due to concerns related to COVID–19;

(5) is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of the son or daughter is unavailable, due to COVID–19 precautions; or

(6) is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services (HHS) in consultation with the Secretaries of the Treasury and Labor. The Secretary of HHS has specified, after consultation with the Secretaries of Treasury and Labor, that a substantially similar condition is one in which the employee takes leave:

- To accompany an individual to obtain immunization related to COVID–19, or
- to care for an individual who is recovering from any injury, disability, illness, or condition related to the immunization.[2]

If an employee is unable to work or telework for reasons related to COVID–19 described in (1), (2), or (3) above, qualified sick leave wages are wages paid at the employee's regular rate of pay or, if higher, the Federal minimum wage or any applicable State or local minimum wage, up to a maximum of $511 per day and $5,110 in the aggregate. If an employee is unable to work or telework for reasons related to COVID–19 described in (4), (5), or (6) above, qualified sick leave wages are two-thirds of the wages paid at the employee's regular rate of pay or, if higher, the Federal minimum wage or any applicable State or local minimum wage, up to a maximum of $200 per day and $2,000 in the aggregate.

Under section 3132, a credit is available to eligible employers who pay qualified family leave wages to an employee for up to 12 weeks of paid family leave provided during the period beginning April 1, 2021, and ending September 30, 2021, if the employee is unable to work or telework due to any of the conditions for which eligible employers may provide paid sick leave. Qualified family leave wages are two-thirds of the wages paid at the employee's regular rate of pay, up to a maximum of $200 per day and $12,000 in the aggregate.

[2] For more information on the paid sick and family leave credits, including who is an ''individual'' for purposes of this ''substantially similar'' condition, see Tax Credits for Paid Leave Under the American Rescue Plan Act of 2021 for Leave After March 31, 2021 | Internal Revenue Service (irs.gov) *at https://www.irs.gov/newsroom/tax-credits-for-paid-leave-under-the-american-rescue-plan-act-of-2021-for-leave-after-march-31-2021.*

An eligible employer may not receive the paid family leave credit for the same wages for which it received the paid sick leave credit. Further, an eligible employer that receives the credits for qualified sick leave wages under section 3131 of the Code and qualified family leave wages under section 3132 of the Code (collectively, ''qualified leave wages'') may not receive the employee retention credit allowed under section 2301 of the CARES Act or section 3134 of the Code based on the same wages. For the second calendar quarter of 2021, if an eligible employer receives the employee retention credit under section 2301 of the CARES Act based on wages paid that are also qualified leave wages on which the employer may claim the paid sick and family leave credits, the employer must reduce any paid sick and family leave credits by the amount of the credit allowed under section 2301 of the CARES Act that is attributable to those same wages. See sections 3131(f)(3) and 3132(f)(3). For the third and fourth calendar quarters of 2021, any qualified leave wages eligible employers take into account for purposes of the paid sick and family leave credits may not be taken into account for purposes of the employee retention credit under section 3134 of the Code. See section 3134(c)(3)(D).

The paid sick and family leave credits are also reduced by the amount of the credit allowed under section 41 (the credit for increasing research activities) with respect to wages taken into account for determining both the credit under section 41 and the paid sick and family leave credits. In addition, any wages taken into account in determining paid sick and family leave credits cannot be taken into account as wages for purposes of the credits under sections 45A, 45P, 45S, and 51. See sections 3131(f)(3) and 3132(f)(3).

Sections 3131(f)(2) and 3132(f)(2) provide that, for purposes of sections 3131 and 3132, respectively, the term ''wages'' means wages as defined in section 3121(a), determined without regard to paragraphs (1) through (22) of section 3121(b), and compensation as defined in section 3231(e), determined without regard to the sentence in section 3231(e)(1) that begins ''Such term does not include remuneration''. Eligible employers are entitled to receive a credit equal to the amount of qualified leave wages paid under sections 3131 and 3132. Under sections 3131(d) and 3132(d), the credit is increased by the eligible employer's cost of maintaining health insurance coverage allocable to the qualified leave wages (''allocable qualified health plan expenses''). Under sections 3131(e) and 3132(e), the credit is also increased by certain amounts paid under collectively bargained agreements by the eligible employer that are properly allocable to the qualified leave wages (''certain collectively bargained contributions''), subject to the daily and aggregate credit limitations. The credits for the qualified leave wages and the collectively bargained contributions combined cannot exceed the $511 daily and $5110 aggregate limitation or $200 daily and $2000 aggregate limitation for paid sick leave and the $200 daily and $12,000 aggregate limitation for paid family leave. However, the credit for the allocable qualified health expenses is in addition to the credit for the qualified leave wages and not subject to the daily and aggregate credit limitations.

Under sections 3131 and 3132, qualified leave wages are subject to the taxes imposed on employers by sections 3111(a) (employer's share of social security tax), 3111(b), and 3221(a), but section 3133(a) provides that the paid sick and family leave credits under sections 3131 and 3132 are increased by the amount of the taxes imposed by sections 3111(a), 3111(b), and 3221(a) on qualified leave wages.

The paid sick and family leave credits under sections 3131 and 3132 are allowed against the taxes imposed on employers under section 3111(b) (the Hospital Insurance tax (Medicare tax)), and against so much of the taxes imposed under section 3221(a) (the Railroad Retirement Tax Act Tier 1 tax) as are attributable to the rate in effect under section 3111(b), as applicable, on all wages and compensation paid to all employees, and any credit amounts in excess of these taxes are treated as an overpayment to be refunded under sections 6402(a) and 6413(b) of the Code. See sections 3131(b)(4)(A), 3131(f)(1), 3132(b)(3)(A), and 3132(f)(1).

II. Employee Retention Credit

Section 2301 of the CARES Act, as originally enacted, provides for an employee retention credit for eligible employers, including tax-exempt organizations, that pay qualified wages, including certain health plan expenses, to some or all employees after March 12, 2020, and before January 1, 2021. Section 206 of the Relief Act adopted amendments and technical changes to section 2301 of the CARES Act for qualified wages paid after March 12, 2020, and before January 1, 2021, primarily expanding eligibility for certain employers to claim the credit. Section 206 of the Relief Act is effective retroactive to the effective date of section 2301 of the CARES Act. Section 207 of the Relief Act, which is effective

for calendar quarters beginning after December 31, 2020, further amends section 2301 of the CARES Act to extend the application of the employee retention credit to qualified wages paid after December 31, 2020, and before July 1, 2021, and to modify the calculation of the credit amount for qualified wages paid during that time. Section 9651 of the ARP enacted section 3134 of the Code, effective for calendar quarters beginning after June 30, 2021, to provide an employee retention credit for qualified wages paid after June 30, 2021, and before January 1, 2022. The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) will continue to monitor potential legislation related to the employee retention credit that may impact certain rules described in this preamble.

The employee retention credit is available to any employer carrying on a trade or business during a calendar quarter that meets the requirements to be an eligible employer under section 3134, which include experiencing a full or partial suspension of business operations due to orders from an appropriate governmental authority limiting commerce, travel, or group meetings (for commercial, social, religious, or other purposes) due to COVID–19, experiencing a decline in gross receipts, or qualifying as a recovery startup business.

For eligible employers that averaged more than 500 full-time employees (within the meaning of section 4980H) during 2019 (large eligible employers), qualified wages are wages and compensation (including allocable qualified health plan expenses), up to $10,000 per employee per calendar quarter, paid to employees for the time during which they are not providing services due to a full or partial suspension of business operations or a decline in gross receipts. For eligible employers that averaged 500 full-time employees or fewer during 2019 (small eligible employers), and for severely financially distressed employers as defined in section 3134(c)(3)(C)(ii) that are also large eligible employers, qualified wages are the wages and compensation (including allocable qualified health plan expenses), up to $10,000 per employee per calendar quarter, paid with respect to an employee (regardless of whether the employee is performing services) during any period in the calendar quarter in which the business operations are fully or partially suspended due to a governmental order or during any calendar quarter in which the employer is experiencing a decline in gross receipts. If an employer was not in existence in 2019, an employer may use the average number of full-time employees in 2020 rather than 2019. If an employer is an eligible employer due to being a recovery startup business, the maximum aggregate employee retention credit the employer may claim in a calendar quarter is $50,000. In the third and fourth calendar quarters of 2021, a recovery startup business that is a small eligible employer may treat all wages paid with respect to an employee during the quarter as qualified wages. See Notice 2021–49.

The same wages or compensation cannot be counted for both the paid sick and family leave credits under sections 3131 and 3132 and the employee retention credit under section 3134. Qualified wages for the employee retention credit also do not include any wages taken into account under sections 41, 45A, 45P, 45S, 51, and 1396 of the Code. See section 3134(c)(3)(D). Additionally, qualified wages do not include amounts taken into account as payroll costs for Paycheck Protection Program loan forgiveness and certain grants. See section 3134(h).

Section 3134(c)(4)(A) provides that, for purposes of section 3134, the term ''wages'' means wages as defined in section 3121(a) [3] and compensation as defined in section 3231(e).

The employee retention credit under section 3134 is equal to 70 percent of qualified wages paid. The credit is allowed against the taxes imposed on employers under section 3111(b), first reduced by any tax credits allowed under sections 3131 and 3132, and against so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, first reduced by any credits allowed under sections 3131 and 3132, on all wages and compensation paid to all employees. Any credit amounts in excess of these taxes are treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b) of the Code.

III. Refundability of Credits

Sections 3131(b)(4)(A), 3132(b)(3)(A), and 3134(b)(3) provide that if the amount of the paid sick and family leave credits (which would include any increases in the credits under section 3133(a)) and employee retention credit exceeds the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, for any calendar quarter, after application of the other credits previously applied, such excess shall be treated as an overpayment that shall be refunded under sections 6402(a) and 6413(b).

Section 6402(a) generally provides that, within the applicable period of limitations, overpayments may be credited against any liability in respect of an internal revenue tax on the part of the person who made the overpayment and any remaining balance refunded to such person. Section 6413(b) provides that if more than the correct amount of employment tax imposed by sections 3101, 3111, 3201, 3221, or 3402 is paid or deducted and the overpayment cannot be adjusted under section 6413(a).[4] the amount of the overpayment shall be refunded (subject to the applicable statute of limitations) as the Secretary may prescribe in regulations.

The IRS revised Form 941, *Employer's Quarterly Federal Tax Return,* Form 943, *Employer's Annual Federal Tax Return for Agricultural Employees,* Form 944, *Employer's Annual Federal Tax Return,* and Form CT–1, *Employer's Annual Railroad Retirement Tax Return,* so that employers may use these returns to claim the paid sick and family leave credits under sections 3131 through 3133 and the employee retention credit under section 3134. The revised employment tax returns allow for any of these credits in excess of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, to be credited against other employment taxes and then for any remaining balance to be credited or refunded to the employer in accordance with section 6402(a) or section 6413(b).

IV. Advance Payment of Credits and Erroneous Refunds

Sections 3131(b)(4)(B) and 3132(b)(3)(B) provide that, in anticipation of the paid sick and family leave credits under these sections (which would include any increases in the credits under section 3133(a)), including any refundable portions, these

[3] For purposes of certain governmental organizations or entities as described in section 3134(f)(2) of the Code, wages as defined in section 3121(a) are determined without regard to paragraphs (5), (6), (7), (10), and (13) of section 3121(b) (except with respect to services performed in a penal institution by an inmate thereof).

[4] Section 6413(a) addresses interest-free adjustments of overpayments. The section provides that if more than the correct amount of employment tax imposed by section 3101, 3111, 3201, 3221, or 3402 is paid with respect to any payment of remuneration, proper adjustments with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the Secretary may by regulations prescribe.

credits are to be advanced, according to forms and instructions provided by the Secretary, up to the total allowable amount of the credits and subject to applicable limits for the calendar quarter. Section 3134(j)(2) provides that eligible employers for which the average number of full-time employees (within the meaning of section 4980H) employed by the eligible employer during 2019 was not greater than 500 may elect for any calendar quarter to receive an advance payment of the employee retention credit for the quarter in an amount not to exceed 70 percent of the average quarterly wages paid in calendar year 2019.

To implement the advance payment provisions, employers that are eligible to receive an advance of the tax credits may use IRS Form 7200, *Advance Payment of Employer Credits Due To COVID–19,* to request an advance of the paid sick and family leave credits and the employee retention credit. Employers are required to reconcile any advance payments claimed on Form 7200 with total credits claimed and total taxes due on their employment tax returns.

A refund or credit of any portion of these tax credits, regardless of whether they are advanced, to a taxpayer in excess of the amount to which the taxpayer is entitled is an erroneous refund that the employer must repay.

V. Assessment Authority

Section 6201 authorizes the Secretary to determine and assess tax liabilities including interest, additional amounts, additions to the tax, and assessable penalties. However, the general authority to assess tax liabilities under section 6201(a) does not provide for the assessment of any non-rebate [5] portion of an erroneous refund of a refundable tax credit, which may include a portion of the credits available under sections 3131, 3132, and 3134, if the refund exceeds the amounts to which an employer is properly entitled. While these types of erroneous refunds are generally recovered or recaptured through agreed upon voluntary repayments, setoff, or through litigation, the Code in some instances, such as in sections 3131, 3132, and 3134, provides for the administrative recapture of these non-rebate refunds either by directly authorizing assessment of the erroneous non-rebate refunds or by authorizing the promulgation of regulations or other guidance to do so.

Specifically, with regard to the paid sick and family leave credits, sections 3131(g) and 3132(g) provide, in relevant part, that the Secretary will provide such regulations or other guidance as may be necessary to carry out the purposes of the credits, including regulations or other guidance to prevent the avoidance of the purposes of the limitations under this provision and to recapture the benefit of the credit in cases where there is a subsequent adjustment to the credit. See sections 3131(g)(1), 3131(g)(4), 3132(g)(1), and 3132(g)(4). With regard to the employee retention credit, section 3134(j)(3)(B) allows for the direct assessment of certain erroneous refunds of advanced portions of the credit by providing that if a small eligible employer specified in section 3134(j)(2) receives excess advance payments of the credit, then the taxes imposed under section 3111(b) or so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, for the calendar quarter are increased by the amount of the excess. Section 3134(m)(3) further provides that the Secretary will issue such forms, instructions, regulations, and other guidance as are necessary to prevent the avoidance of the purposes of the limitations under section 3134.

On July 29, 2020, temporary regulations (TD 9904) amending the Employment Tax Regulations under sections 3111 and 3221 to provide for the recapture of erroneous refunds of the paid sick and family leave credits under the Families First Act and erroneous refunds of the employee retention credit under the CARES Act, pursuant to the authority granted under these acts to prescribe those regulations, were published in the **Federal Register** (85 FR 45514). A notice of proposed rulemaking (REG–111879–20) cross-referencing the temporary regulations was published in the **Federal Register** on the same day (85 FR 45551). Because the ARP did not amend the Families First Act or CARES Act to extend the paid leave credits and employee retention credit provided thereunder, but rather enacted new Code sections that provide for similar credits, the temporary regulations in TD 9904 do not apply to the credits under the ARP. Therefore, separate regulations are required to provide for the recapture of the erroneous refund of these credits pursuant to the authority granted under sections 3131, 3132, and 3134.

Accordingly, this document amends the Employment Tax Regulations (26 CFR part 31) by adding temporary regulations under new sections 3131, 3132, and 3134 of the Code. Concurrent with the publication of this Treasury decision, the Treasury Department and the IRS are publishing in the Proposed Rules section of this issue of the **Federal Register** a notice of proposed rulemaking (REG–109077–21) on this subject that cross-references the text of these temporary regulations. *See* section 7805(e)(1). Interested persons are directed to the **ADDRESSES** and Comments and Requests for a Public Hearing sections of the preamble to REG–109077–21 for information on submitting public comments or requesting a public hearing on the proposed regulations.

Explanation of Provisions

Sections 3131(b)(3), 3131(b)(4)(A), 3131(f)(1), 3132(b)(2), 3132(b)(3)(A), 3132(f)(1), 3134(b)(2), 3134(b)(3), and 3134(c)(1) provide that the credits described in these sections are taken against the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, (although for the employee retention credit, the taxes are first reduced by any paid sick and family leave credits). Additionally, if the amount of the credits exceeds these taxes for any calendar quarter, then the excess shall be treated as an overpayment to be refunded or credited under sections 6402(a) and 6413(b). Any credits claimed that exceed the amount to which the employer is entitled and that are actually credited or refunded by the IRS are considered to be erroneous refunds of these credits. Section 3134(j)(3)(B) provides that if a small eligible employer specified in section 3134(j)(2) receives excess advance payments of the credit, then the taxes imposed under section 3111(b) or so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, for the calendar quarter are increased by the amount of the excess.

These temporary regulations provide that erroneous refunds of these credits are treated as underpayments of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable. These temporary regulations authorize the IRS to assess any credits erroneously credited, paid, or refunded in excess of the amount allowed as if those amounts were taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable,

[5] As a general matter, ''non-rebate'' refers to the portion of any refund of a tax credit that exceeds the IRS's determination of the recipient's tax liability (*i.e.,* the remaining portion of the refund that is paid to the recipient after the refund has been applied to the recipient's tax liability).

subject to assessment and administrative collection procedures. This allows the IRS to prevent the avoidance of the purposes of the limitations under the credit provisions and to recover the erroneous refund amounts efficiently, while also preserving administrative protections afforded to taxpayers with respect to contesting their tax liabilities under the Code and avoiding unnecessary costs and burdens associated with litigation. These assessment and administrative collection procedures may apply in the normal course in processing employment tax returns that include advances in excess of claimed credits and in examining returns for excess claimed credits. These assessment and administrative collection procedures do not replace the existing recapture methods, but rather represent an alternative method available to the IRS.

Specifically, these temporary regulations provide that any amount of the credits for qualified leave wages and certain collectively bargained contributions under sections 3131 and 3132, plus any amount of credits for qualified health plan expenses under sections 3131(d) and 3132(d), and including any increases in these credits under section 3133, and any amount of the employee retention credit for qualified wages under section 3134 of the Code that are erroneously refunded or credited to an employer shall be treated as underpayments of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, by the employer and may be administratively assessed and collected in the same manner as the taxes. These temporary regulations provide that the determination of any amount of credits erroneously refunded must take into account any credit amounts advanced to an employer under the process established by the IRS in accordance with sections 3131(b)(4)(B), 3132(b)(3)(B) and 3134(j)(2).

In certain situations, third-party payors claim tax credits on behalf of their common law employer clients. These temporary regulations address this situation by providing that employers against which an erroneous refund of credits may be assessed as an underpayment include persons treated as the employer under sections 3401(d), 3504, and 3511, consistent with their liability for the employment taxes against which the credits applied.

Sections 3131(h) and 3132(h) provide that the paid sick and family leave credits apply to wages paid with respect to a period of leave taken beginning on April 1, 2021 and ending on September 30, 2021. Section 3134(n) provides that the employee retention tax credit applies to wages paid after June 30, 2021, and before January 1, 2022.

Pursuant to section 7805(b)(2) of the Code, these temporary regulations are permitted to apply before the dates provided under section 7805(b)(1), including the date on which these temporary regulations are filed with the **Federal Register**, because these temporary regulations are being issued within 18 months of the date of the enactment of the relevant statutory provisions. Accordingly, these temporary regulations apply to all credits under sections 3131 and 3132, including any increases to the credits under section 3133, credited or refunded on or after April 1, 2021, including advanced refunds, as well as all credits under section 3134 that are credited or refunded on or after July 1, 2021, including advanced refunds. These applicability dates correspond to the effective dates of the statutory sections that provide for these credits and that authorize guidance to allow for the administrative recapture of erroneous refunds of these credits.

Special Analyses

The Office of Management and Budget's Office of Information and Regulatory Analysis has determined that these temporary regulations are not significant and not subject to review under section 6(b) of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), the Secretary certifies that these temporary regulations will not have a significant economic impact on a substantial number of small entities because these temporary regulations impose no compliance burden on any business entities, including small entities. Although these temporary regulations will apply to all employers eligible for the tax credits under sections 3131, 3132, and 3134, including small businesses and tax-exempt organizations with fewer than 500 employees, and will therefore be likely to affect a substantial number of small entities, the economic impact will not be significant. These temporary regulations do not affect the employer's employment tax reporting or the necessary information to substantiate entitlement to the credits. Rather, these temporary regulations merely implement the statutory authority granted under sections 3131(g), 3132(g), and 3134(m) that authorize the IRS to assess, reconcile, and recapture any portion of the credits erroneously credited, paid, or refunded in excess of the actual amount allowed as if the amounts were taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, subject to assessment and administrative collection procedures. Notwithstanding this certification, the Treasury Department and the IRS invite comments on any impact these temporary regulations would have on small entities.

Pursuant to section 7805(f), these temporary regulations have been submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

The Treasury Department and the IRS have determined that there is good cause to issue these regulations as temporary regulations. Employers were required to file Form 941, *Employer's Quarterly Federal Tax Return,* for the second quarter of calendar year 2021 by July 31, 2021, as required by section 6071 of the Code and Treas. Reg. § 31.6071(a)–1. Employers use Form 941 to claim paid sick and family leave credits and the employee retention credit, as well as to report any advance of these credits they received during the calendar quarter. In filing their second quarter 2021 Form 941, some employers may have already received, as an advance, refund amounts in excess of the credits to which they are entitled. In addition to the statutory authority provided by section 3134(j)(3) with regard to erroneous advance refunds of the employee retention credit, these temporary regulations authorize the assessment of any erroneous refunds of the credits. Without these temporary regulations, in some instances the IRS may not be able to avoid bringing costly and burdensome litigation to recover the erroneous refunds. Further, comments are being solicited in the cross-referenced notice of proposed rulemaking that is in this issue of the **Federal Register**, and any comments will be considered before final regulations are issued.

Statement of Availability of IRS Documents

IRS notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

Drafting Information

The principal author of these temporary regulations is NaLee Park, Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the Treasury Department and the IRS participated in the development of these temporary regulations.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 is amended by adding entries for §§ 31.3131–1T, 31.3132–1T, and 31.3134–1T in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 31.3131–1T also issued under 26 U.S.C. 3131(g).

Section 31.3132–1T also issued under 26 U.S.C. 3132(g).

Section 31.3134–1T also issued under 26 U.S.C. 3134(m)(3).

* * * * *

■ **Par. 2.** Section 31.3131–1T is added to read as follows:

§ 31.3131–1T Recapture of credits.

(a) *Recapture of erroneously refunded credits.* Any amount of credits for qualified sick leave wages under section 3131(a), including any increase to the amount of the credits under sections 3131(d), 3131(e), and 3133, that are treated as overpayments and refunded or credited to an employer under section 6402(a) or section 6413(b) and to which the employer is not entitled, resulting in an erroneous refund to the employer, shall be treated as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, and may be assessed and collected by the Secretary in the same manner as the taxes.

(b) *Advance credit amounts erroneously refunded.* The determination of any amount of credits erroneously refunded as described in paragraph (a) of this section must take into account any amount of credits advanced to an employer under the process established by the Internal Revenue Service in accordance with sections 3131(b)(4)(B) and 3131(g)(6).

(c) *Third party payors.* For purposes of this section, employers against whom an erroneous refund of the credits under section 3131 (including any increases in those credits under section 3133), can be assessed as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, include persons treated as the employer under sections 3401(d), 3504, and 3511, consistent with their liability for the section 3111(b) or 3121(a) taxes against which the credit applied.

(d) *Applicability date.* This section applies to all credit refunds under section 3131 (including any increases in those credits under section 3133), advanced or paid on or after April 1, 2021.

■ **Par. 3.** Section 31.3132–1T is added to read as follows:

§ 31.3132–1T Recapture of credits.

(a) *Recapture of erroneously refunded credits.* Any amount of credits for qualified family leave wages under sections 3132, including any increase to the amount of the credits under sections 3132(d), 3132(e), and 3133, that are treated as overpayments and refunded or credited to an employer under section 6402(a) or section 6413(b) and to which the employer is not entitled, resulting in an erroneous refund to the employer, shall be treated as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, and may be assessed and collected by the Secretary in the same manner as the taxes.

(b) *Advance credit amounts erroneously refunded.* The determination of any amount of credits erroneously refunded as described in paragraph (a) of this section must take into account any amount of credits advanced to an employer under the process established by the Internal Revenue Service in accordance with sections 3132(b)(3)(B) and 3132(g)(6).

(c) *Third party payors.* For purposes of this section, employers against whom an erroneous refund of the credits under section 3132 (including any increases in those credits under section 3133), can be assessed as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3121(a) as are attributable to the rate in effect under section 3111(b), as applicable, include persons treated as the employer under sections 3401(d), 3504, and 3511, consistent with their liability for the section 3111(b) or 3121(a) taxes against which the credit applied.

(d) *Applicability date.* This section applies to all credit refunds under section 3132 (including any increases in those credits under section 3133) advanced or paid on or after April 1, 2021.

■ **Par. 4.** Section 31.3134–1T is added to read as follows:

§ 31.3134–1T Recapture of credits.

(a) *Recapture of erroneously refunded credits.* Any amount of credits for qualified wages under section 3134 of the Code that is treated as an overpayment and refunded or credited to an employer under section 6402(a) or section 6413(b) of the Code and to which the employer is not entitled, resulting in an erroneous refund to the employer, shall be treated as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3221(a) as are attributable to the rate in effect under section 3111(b), as applicable, and may be assessed and collected by the Secretary in the same manner as the taxes.

(b) *Advance credit amounts erroneously refunded.* The determination of any amount of credits erroneously refunded as described in paragraph (a) of this section must take into account any amount of credits advanced to an employer under the process established by the Internal Revenue Service in accordance with sections 3134(j) and 3134(m).

(c) *Third party payors.* For purposes of this section, employers against whom an erroneous refund of the credits under section 3134 can be assessed as an underpayment of the taxes imposed under section 3111(b) and so much of the taxes imposed under section 3121(a) as are attributable to the rate in effect under section 3111(b), as applicable, include persons treated as the employer under sections 3401(d), 3504, and 3511, consistent with their liability for the section 3111(b) or 3121(a) taxes against which the credit applied.

(d) *Applicability date.* This section applies to all credit refunds under

section 3134 advanced or paid on or after July 1, 2021.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

Approved: August 18, 2021.

Mark J. Mazur,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2021–19524 Filed 9–8–21; 4:15 pm]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0333; FRL–8609–02–R9]

Air Plan Limited Approval and Limited Disapproval, California; Mojave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a limited approval and limited disapproval of a revision to the Mojave Desert Air Quality Management District's (MDAQMD or District) portion of the California State Implementation Plan (SIP). This revision concerns oxides of nitrogen (NO_X) emissions from stationary internal combustion engines. Under the authority of the Clean Air Act (CAA or the ''Act''), this action approves a local rule that regulates these emission sources into the federally-enforceable SIP, thereby strengthening the SIP, while identifying deficiencies with the rule that must be corrected by the MDAQMD in order for the EPA to grant full approval of the rule.

DATES: This rule will be effective on October 12, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA–R09–OAR–2021–0333. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3073 or by email at *gong.kevin@epa.gov.*

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

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I. Proposed Action
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I. Proposed Action

On June 1, 2021 (86 FR 29227), the EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

TABLE 1—SUBMITTED RULE

Rule #	Rule title	Amended	Submitted
1160	Internal Combustion Engines	01/22/2018	05/23/2018

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. The following provisions do not satisfy the requirements of section 110 and part D of title I of the Act and prevent full approval of the SIP revision.

1. MDAQMD Rule 1160 section (C)(2)(b) allows for engines to comply with an alternative emission reduction provision instead of the concentration-based emission limits for NO_X. Specifically, this alternative provision allows for owners or operators of applicable equipment to submit a plan for alternative emissions reduction that would achieve an 80% or 90% reduction of emissions from a baseline emission rate. Because the rule does not clearly specify how to calculate the baseline emission rate, the rule is not sufficiently clear to constitute an enforceable emission limitation, control measure, means or technique, as required under section 110(a)(2) of the Act. Furthermore, the rule leaves the approval of the NO_X emission reduction alternative to the District without EPA review or approval of the alternative into the SIP. Because the rule is not clear with respect to how to calculate the baseline emission rate, and the approval of an alternative limit lies solely with the District, this provision allows for overbroad discretion on the part of the Director to modify requirements of the SIP without the procedures required under section 110 of the Act. In addition, the ambiguous alternative emission reduction provision could allow many units to emit more than the concentration limit in the rule by, in some cases, more than two times. Additionally, the alternative limits have not been justified as meeting the reasonably available control technology (RACT) requirement.

2. Under section (C)(2)(b)(v), the alternative emission reduction option also allows for units operating at the same facility to aggregate their emissions in order to comply with the percentage reduction. This type of provision (emissions aggregation) constitutes an economic incentive program (EIP) under the EPA's 2001 EIP guidance.[1] As discussed in the proposed rule, the rule provisions do not meet the criteria for EIP integrity because they fail to require that any excess emission reductions credited through the provision be surplus (*i.e.,* not required by any other federally enforceable provision). This omission could allow reductions that are otherwise federally required to be aggregated and therefore allow greater emissions at other units.

3. The compliance determination requirements described in section (E)(1)(c) do not require adequate source testing for emission units without emission control equipment. The requirements do not specify any

[1] ''Improving Air Quality with Economic Incentive Programs'' (EPA–452/R–01–001, January 2001).

frequency for testing beyond the initial compliance test, and do not specify what criteria must be met for certified manufacturer emission rates to be evidence of compliance.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received one comment from the MDAQMD expressing concern regarding the EPA's communication with the District in advance of the proposed action, indicating that these issues could have been raised sooner to give the District an opportunity to address them in the local rulemaking process. Although the comment expressed concern about the EPA's communications with the District during the rule development process, the comment did not criticize the substance of the deficiencies identified by the EPA in the proposed rulemaking and described the EPA's concerns as ''legitimate.'' The District also stated they would be initiating a local rulemaking process in the near future to resolve these issues. Accordingly, we acknowledge the concerns raised by the District, but do not consider the comment to be suggesting that the EPA take a different course of action in the current rulemaking.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized by the grant of authority to approve and disapprove SIP submissions contained in sections 110(k)(3) and 301(a) of the Act, the EPA is finalizing a limited approval and limited disapproval of the submitted rule. Our limited approval incorporates the submitted rule into the California SIP, including those provisions identified as deficient.

As a result of the limited disapproval, the EPA must promulgate a Federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months.

In addition, the offset sanction in CAA section 179(b)(2) will be imposed 18 months after the effective date of this action, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the identified deficiencies before the applicable deadline.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the MDAQMD rule described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *http://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the

Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 9, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 1, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency amends part 52, chapter I, title 40 of the Code of Federal Regulations as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(207)(i)(D)(*5*) and (c)(518)(i)(A)(*7*) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(207) * * *

(i) * * *

(D) * * *

(*5*) Previously approved on November 1, 1996 in paragraph (c)(207)(i)(D)(*3*) of this section and now deleted with replacement in paragraph (c)(518)(i)(A)(*6*) of this section, Rule 1160, adopted on October 26, 1994.

* * * * *

(518) * * *

(i) * * *

(A) * * *

(*7*) Rule 1160, ''Internal Combustion Engines,'' amended on January 22, 2018.

* * * * *

[FR Doc. 2021–19435 Filed 9–9–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2020–0476; FRL–8777–02–R9]

Air Plan Approval; California; Antelope Valley Air Quality Management District, Eastern Kern Air Pollution Control District, and Yolo-Solano Air Quality Management District; Combustion Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Antelope Valley Air Quality Management District (AVAQMD), Eastern Kern Air Pollution Control District (EKAPCD), and Yolo-Solano Air Quality Management District (YSAQMD) portions of the California State Implementation Plan (SIP). These revisions concern emissions of oxides of nitrogen (NO_X) from boilers, steam generating units, process heaters, and stationary internal combustion engines. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the ''Act'').

DATES: This rule will be effective on October 12, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2020–0476. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone at (415) 972–3073 and by email at *gong.kevin@epa.gov.*

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

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I. Proposed Action

On April 5, 2021 (86 FR 17567), the EPA proposed to approve the following rules into the California SIP.

TABLE 1—SUBMITTED RULES

Local agency	Rule #	Rule title	Local action	Submitted
AVAQMD	1110.2	Emissions from Stationary, Non-Road and Portable Internal Combustion Engines.	Amended 09/18/2018	10/30/2018
EKAPCD	425.2	Boilers, Steam Generators, and Process Heaters (Oxides of Nitrogen).	Amended 01/11/2018	08/22/2018
YSAQMD	2.27	Large Boilers	Revised 05/15/2019	08/19/2019

In our proposed rule, we erroneously stated that an earlier version of EKAPCD Rule 425.2 had been approved into the SIP on October 28, 1999 (64 FR 57991). That version of the rule was approved into the SIP on September 24, 1999 (64 FR 51688). We proposed to approve these rules because we determined that they comply with the relevant CAA

requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the local air district rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 9, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 31, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(241)(i)(B)(*2*), (c)(249)(i)(B)(*2*), (c)(520)(i)(B), (c)(521)(i)(A)(*2*) and (c)(542)(i)(C) to read as follows:

§ 52.220 Identification of plan-in part.

* * * * *

(c) * * *

(241) * * *

(i) * * *

(B) * * *

(*2*) Previously approved on June 17, 1997 in paragraph (c)(241)(i)(B)(*1*) of this section and now deleted with replacement in (c)(542)(i)(C)(*1*), Rule 2.27, revised on August 14, 1996.

* * * * *

(249) * * *

(i) * * *

(B) * * *

(*2*) Previously approved on September 24, 1999 in paragraph (c)(249)(i)(B)(*1*) of this section and now deleted with replacement in (c)(520)(i)(A)(*1*), Rule 425.2 adopted on October 13, 1994 and amended on July 10, 1997.

* * * * *

(520) * * *

(i) * * *

(B) Eastern Kern Air Pollution Control District.

(*1*) Rule 425.2, ''Boilers, Steam Generators, and Process Heaters (Oxides of Nitrogen),'' amended on January 11, 2018.

(*2*) [Reserved]

* * * * *

(521) * * *

(i) * * *

(A) * * *

(2) Rule 1110.2, ''Emissions from Stationary, Non-Road and Portable Internal Combustion Engines,'' amended on September 18, 2018.

* * * * *

(542) * * *

(i) * * *

(C) Yolo-Solano Air Quality Management District.

(*1*) Rule 2.27, ''Large Boilers,'' revised on May 15, 2019.

(2) [Reserved]

* * * * *

[FR Doc. 2021–19434 Filed 9–9–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[EPA–R10–RCRA–2021–0142; FRL–8917–02–R10]

Hazardous Waste Management System; Final Exclusion for Identifying and Listing Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) (also, ''the Agency'' or ''we'' in this preamble) is taking final action to finalize technical amendments to an existing exclusion from the list of federal hazardous waste (delisting) issued to the United States Department of Energy (Energy) under the Resource Conservation and Recovery Act. These modifications address changes to the 200-Area Effluent Treatment System associated with the delisting necessary to accept liquid effluents expected to be generated from vitrification of certain low-activity mixed wastes at the Hanford Federal Facility, or Hanford Site, in Richland, Washington.

DATES: This final rule is effective on September 10, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–RCRA–2021–0142. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (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 electronically through *www.regulations.gov.* Due to restrictions related to COVID–19, docket materials are not available in hard copy form at this time. If you have further questions concerning docket materials, we recommend you telephone Dr. David Bartus at (206) 553–2804.

FOR FURTHER INFORMATION CONTACT: Dr. David Bartus, EPA, Region 10, 1200 6th Avenue, Suite 155, M/S M/S 15–H04, Seattle, Washington 98070; telephone number: (206) 553–2804; email address: *bartus.dave@epa.gov.*

As discussed in Section V of this document, the Washington State Department of Ecology is making a separata but parallels decision regarding the Petitioner's request for this modification under state authority. Information on Ecology's action may be found at *https://ecology.wa.gov/Waste-Toxics/Nuclear-waste/Public-comment-periods.*

SUPPLEMENTARY INFORMATION: The information in this section is organized as follows:

I. Overview Information
II. EPA's Evaluation of Public Comments
III. Final Rule
A. What are the terms of this exclusion?
B. When is the delisting effective?
C. How does this action affect the states?
IV. Statutory and Executive Order Reviews

I. Overview Information

Based on a petition submitted to the EPA, Energy requested technical amendments to an existing exclusion from the list of federally listed wastes set forth in 40 Code of Federal Regulations (CFR) 261.33 previously issued to the United States Department of Energy (Energy) for the Hanford Federal Facility, or Hanford Site in Richland, Washington (Current delisting). See 40 CFR part 261, appendix IX, Table 2. This existing exclusion applies to treated effluent generated by Hanford's 200 Area Effluent Treatment Facility (ETF). The requested amendments relate to the planned startup of the Hanford Waste Treatment and Immobilization Plant (WTP). Details of Energy's requested technical amendments are more fully described in EPA's proposed regulatory amendments to the existing delisting at 86 (FR) 30237, June 7, 2021. After consideration of comments received on the EPA's proposed regulatory amendments, the EPA is finalizing these amendments as proposed. The EPA is also making one grammatical clarification identified after the proposal cited above.

II. EPA's Evaluation of Public Comments

The EPA received one anonymous set of comments on the proposed regulatory amendments. These comments, and the EPA's evaluation of them, are described below.

This commenter raises several issues. One common theme is that there are data gaps or other uncertainties regarding the ability of the Effluent Treatment Facility to manage future wastes from the WTP. The following sections address each of the comments that have a clear nexus to the proposed modification of the existing 200-Area ETF delisting.

Uncertainty Regarding the Future Capability To Treat ''the Future Unknowns''

The commenter stated ''It appears that the current petition revision is solely to address acetonitrile, but that there are other unknowns and chemicals of concern to be submitted at a later date for future delisting petitions. There is no guarantee that there will be a future capability to treat the future unknowns, leaving a considerable risk of what to do with non-compliant effluent from the WTP.''

In promulgating significant revisions to the 200–ETF delisting in 2005 (70 FR 44498, July 30, 2012), Ecology and EPA explicitly intended to broadly expand the waste streams that the ETF could process within the scope of the treated effluent delisting. More specifically, the final delisting rule stated ''The effect of these changes is to allow the 200 Area ETF to fulfill an expanded role in supporting Hanford Facility cleanup actions beyond those activities considered in the 1995 delisting rulemaking. In particular, these changes will allow the 200 Area ETF to treat mixed wastewaters from a number of additional sources beyond 242–A Evaporator process condensate (PC) upon which the original delisting was based.'' (*See* 70 FR 44497, July 30, 2012).

Consistent with this objective, the 2005 delisting modifications established a detailed mechanism based on the concept of a treatability envelope, which defines the ability of the ETF system overall to treat a wide range of waste constituents. This mechanism is based on an engineering model of the various unit operations within the ETF treatment train. Additionally, constituent-specific data for a wide range of constituents were used on a waste-stream specific basis to evaluate the treatability of that waste stream as part of the waste acceptance process for

the ETF. A target goal with this approach was to establish a delisting framework that could consider future waste streams for which characterization data was not available at the time, but that could be managed in the future. More importantly, as Ecology and EPA noted in the 2005 delisting rulemaking ''[s]ince Energy could not reasonably provide detailed characterization of wastes streams that have yet to be generated, EPA proposed a waste acceptance framework based on an engineering evaluation of waste streams. This model provides a degree of confidence that treatment in the 200 Area ETF will meet delisting exclusion limits to the same degree of confidence as if detailed waste stream characterization were available, while avoiding the need to frequently revise the delisting rule itself.'' (*See* 70 FR 44499, July 30, 2012).

Liquid effluents from the Waste Treatment Plant are one example of wastes that, in 2005, were expected to be generated in the future, but were not sufficiently characterized in order to be evaluated at that time. Since the 2005 modifications, the Department of Energy has made progress in both the design and operation of the planned WTP, including a detailed characterization of the liquid effluents from the WTP through engineering design and modelling. (*See* the engineering report and associated supporting calculation documents provided in the docket for the current delisting modifications). From this work, Energy identified a number of constituents in WTP liquid effluent that would need to be considered in the context of the ETF delisting. Energy has provided a request to the EPA (21–ECD–001774 dated June 29, 2021, available in the Hanford administrative records at *www.hanford.gov*) to consider five of these additional constituents through a modification of Tables C–1 and C–2 pursuant to Condition (1)(b) of the existing delisting. This request is consistent with the mechanism already in place under the existing delisting. Because the June 29, 2021 request is outside the scope of this modification to the delisting rule itself, the request to add five additional constituents identified in the June 29, 2021 request are not further considered in this comment response, but will be addressed by EPA's expected future response to the June 29, 2021 request.

As documented in its request for a modification of the 200 Area ETF delisting, Energy identified that acetonitrile exceeded the existing treatability envelope for that constituent. Based on our analysis of information provided by Energy for the current proposed modification, and the overall structure and content of the 2005 modifications to the delisting, EPA and Ecology have determined that with the current proposed modifications, the 200-Area ETF is fully capable of accepting reasonably expected liquid effluents from the WTP, and that there is little if any regulatory, environmental, or project risk associated with WTP liquid effluents that would warrant future modifications of the 200 Area ETF delisting.

The commenter also raised a concern about a lack of pilot scale testing for WTP effluent. In particular the commenter states ''In the case of 242–A condensate, condensates had been sampled, and surrogate wastes were processed through pilot scale ETF treatment units in order to provide an 'up front' petition'' and ''No pilot scale processes have been conducted for the current WTP EMF effluent. There is no pilot EMF and no integrated pilot scale Direct Feed Low Activity Waste (DFLAW) process treatment train. The integrated WTP 'pilot scale' equipment does not exist for DFLAW. Rather WTP itself is being built as a full-scale pilot plant, with unknown and uncertain (but certain to be expensive) results.''

Ecology and EPA acknowledge that the current proposed delisting rule modification changes are based on projections, not full-scale operations or demonstration testing. With respect to acetonitrile, the proposed changes to the delisting rule are specifically targeted to ensure an implementable mechanism is in place. This will allow demonstration testing as necessary, to expand the treatability envelope for acetonitrile. Therefore, before full-scale operation of the DFLAW configuration of the WTP begins, Energy will have performed exactly the type of direct demonstration that this comment speaks to. As discussed more fully in the 2005 delisting modification action, the current 200-Area ETF delisting is explicitly structured to accommodate new constituents where such new constituents are within the treatment capacity of ETF (as reflected in the waste-stream specific waste processing strategy required by the delisting rule). New constituents can be accepted for treatment in the 200 Area ETF without modification of the delisting. For new constituents that would require changes to a treatability envelope, the new demonstration testing mechanism in the current proposal would be applied.

Secondary Wastes From the 200-Area ETF

The commenter raises multiple issues regarding secondary waste associated with the 200-Area ETF system. In particular the commenter states ''[a] defined secondary waste disposition path is needed for the solids/brine produced by treatment of WTP EMF hot operations effluent.'' And ''DOE has initiated an additional project to install the capability to load-out brine from the ETF STT's concentrate tanks into totes for shipment off-site. This project will mitigate brine removal issues from the STT and expand the capacity of WTP EMF hot operations effluent treated[.]''

Information in the proposed delisting docket notes that ETF brine could be sent off-site for further treatment. (*See* RPP–RPT–62739, pages 35, 38, 39, and 108). While this may be a valid issue, secondary wastes are not within the scope of the proposed modifications to the 200-Area ETF delisting.

Addition of New Constituents

The commenter notes that Energy has identified multiple additional constituents associated with liquid effluent from the WTP. In particular, the commenter states ''[a]dditionally, RPP–RPT–60974 lists constituents in the projected WTP EMF hot operations wastewater profile that are not included in the delisting treatability envelope, including 2-hexanone, 2-butoxyethanol, acetate, glycolate, oxalate, boron, and manganese. These additional constituents (and their associated limits) will need to be added to the delisting approval treatability envelope. A project is underway to complete this action.'' and ''EPA has noted that acetonitrile is difficult to destroy. Will the yet undiscovered other constituents be similarly difficult to destroy, potentially leading to more 'off-site' promises and off-site risks?''

Ecology and EPA agree that the enumerated constituents have been identified by Energy. However, the mechanism established in the 2005 revisions of the ETF delisting, specifically the treatability group concept, was established to address exactly this circumstance. (*See* Condition (1)(b) of the current delisting). Ecology and EPA are expecting a written request from Energy to modify Tables C–1 and C–2 in the existing delisting, to incorporate these additional constituents. Because treatment of these constituents is expected to be well within the treatability envelope of the associated treatability group (to which they will be

added), no change to the delisting rule itself is necessary.

Ecology and EPA have determined (based on their review of the information provided by Energy regarding new constituents associated with the WTP) that the methodology used by Energy in developing this information is sound and defensible. There is no substantial risk of unidentified constituents appearing in WTP liquid effluents that would preclude acceptance of such wastes for treatment at the 200 Area ETF. Ecology and EPA also note that the 2005 revision to the ETF delisting include rigorous waste characterization and waste treatment plan requirements prior to acceptance of any waste for treatment at the 200 Area ETF, ensuring that even in the remote instance that constituents (or levels of constituents) which would cause a waste to be unacceptable for treatment at ETF are identified prior to waste receipt.

Shipment of Secondary Waste for Off-Site Treatment

The commenter also raised concerns regarding Energy's current proposal to send secondary wastes from the ETF (brine, acetonitrile concentrate) to an off-site treatment, storage or disposal facility. In particular, the commenter states ''[a]ny tank-waste-related feeds to LERF/ETF [Liquid Effluent Retention Facility/Effluent Treatment Facility] and any brines produced as a result of the changing 'projections' of WTP waste compositions as described in the current delisting petition, should be prohibited from off-site treatment. The cradle to grave liability for this waste rests with DOE, and DOE should not share it with a facility that has a poor track record and a poor environmental location.'' and the second citation in the comment discussed in the previous section ''Addition of new constituents''.

Regarding the risks associated with treatment of ETF secondary wastes at off-site facilities, Ecology ensures that all such wastes are treated, stored and disposed at approved facilities and in full compliance with all dangerous waste regulations and applicable permits in a manner fully protective of human health and the environment. However, concerns related to treatment, storage or disposal of secondary wastes are not subject to delisting and to this current delisting rule modification proposal.

Lack of Direct Liquid Effluent Characterization

The commentor made several comments regarding a lack of direct waste stream characterization and lack of pilot plant data. In particular, the commenter stated ''[i]n the case of 242–A condensate, condensates had been sampled, and surrogate wastes were processed through pilot scale ETF treatment units in order to provide an 'up front' petition[]'' and ''[n]o pilot scale processes have been conducted for the current WTP EMF effluent. There is no pilot EMF and no integrated pilot scale DFLAW process treatment train. The integrated WTP 'pilot scale' equipment does not exist for DFLAW. Rather WTP itself is being built as a full-scale pilot plant, with unknown and uncertain (but certain to be expensive) results.''

Ecology and EPA acknowledge that the current delisting rule modification changes are based on projections, not full-scale operations or demonstration testing. With respect to acetonitrile, the proposed changes to the delisting rule are specifically targeted to ensure an implementable mechanism is in place to allow demonstration testing as necessary to expand the treatability envelope for acetonitrile. Therefore, before full-scale operation of the DFLAW configuration of the WTP begins, Energy will have performed exactly the type of direct demonstration noted in these comments. As discussed more fully in the 2005 delisting modification action, the current 200-Area ETF delisting is explicitly structured to accommodate new constituents–where such new constituents are within the treatment capacity of ETF (as reflected in the waste-stream specific waste processing strategy) required by the delisting rule. Constituents can be accepted for treatment in the 200 Area ETF without modification of the delisting. For new constituents that would require changes to a treatability envelope, the new demonstration testing mechanism in the current proposal would be applied.

Alternate Treated Effluent Reuse

The commenter also raised an issue regarding alternate re-use practices as documented in RPT–63053, page 19 (This is the engineering report provided as Attachment 3 to the March 31, 2021 delisting modification request, included in the docket). Alternate reuse practices are provided for under Condition 7 of the current delisting, which is not being changed under the current modification proposal. Ecology and EPA understand that Energy will be seeking approval under Condition 7 for expanded treated effluent reuse practices at a later date. Approval of this change is outside of the current proposed delisting modification.

The EPA is also making one grammatical clarification identified after the regulatory amendment proposed rulemaking was published. The EPA is modifying the last phrase of Condition (6)(c) originally worded as ''that the Energy will be liable for Energy's reliance on the void exclusion.'' to read ''. . .that Energy will be liable for Energy's reliance on the voided exclusion.''

III. Final Rule

A. What are the terms of this exclusion?

EPA is finalizing Energy's requested amendments as proposed. Conditions of the existing delisting not modified by this action remain unchanged.

B. When is the delisting effective?

This rule is effective September 10, 2021. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA, 42 U.S.C. 6930(b)(1), to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This rule reduces rather than increases the existing requirements and, therefore, is effective immediately upon publication under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

C. How does this action affect the states?

This exclusion modification is being issued under the federal RCRA delisting program. Therefore, only states subject to federal RCRA delisting provisions would be affected. This exclusion is not effective in states that have received authorization to make their own delisting decisions. Moreover, the exclusion modifications may not be effective in states having a dual system that includes federal RCRA requirements and their own requirements. The EPA allows states to impose their own regulatory requirements that are more stringent than EPA's, under Section 3009 of RCRA. These more stringent requirements may include a provision that prohibits a federally issued exclusion from taking effect in the state. As noted in the notice of proposed rulemaking, Ecology is expected to make a parallel delisting decision under their separate state authority.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget because it is a rule of particular applicability, not general applicability. The action approves a modification of an existing delisting petition under RCRA for the petitioned waste at a particular facility.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is considered an Executive Order 13771 deregulatory action. This final rule maintains meaningful burden reduction afforded by the existing exclusion consistent with changes necessary to allow management of liquid effluents expected from startup and operation of Hanford's Waste Treatment and Immobilization Plant.

C. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) because it only applies to a particular facility.

D. Regulatory Flexibility Act

Because this rule is of particular applicability relating to a particular facility, it is not subject to the regulatory flexibility provision of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

F. Unfunded Mandates Reform Act

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

G. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. This action applies only to a particular facility on non-tribal land. Thus, Executive Order 13175 does not apply to this action.

I. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

J. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

K. National Technology Transfer and Advancement Act

This action does not involve technical standards as described by the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272).

L. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high or adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The EPA has determined that this action will not have disproportionately high or adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment.

M. Congressional Review Act

This action is exempt from the Congressional Review Act (5 U.S.C. 801 *et seq.*) because it is a rule of particular applicability.

List of Subjects in 40 CFR Part 261

Environmental protection; Hazardous waste, Recycling, and Reporting and recordkeeping requirements.

Timothy Hamlin,

Director, Land, Chemicals and Redevelopment Division.

For the reasons set out in the preamble, the EPA amends 40 CFR part 261 as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y) and 6938.

■ 2. In appendix IX to part 261, amend table 2, under the entry ''United States Department of Energy (Energy)'' by:

■ a. Revising Conditions (1)(a)(i) and (ii), and (1)(b);

■ b. Redesignating Conditions (1)(c) and (d) as Conditions (1)(d) and (e);

■ c. Adding a new Conditions (1)(c);

■ d. Revising the newly redesignated Conditions (1)(e)(iv); and

■ e. In Conditions (5) under the entry for ''Organic Constituents'' by:

■ i. Removing the entry ''Dichloroisopropyl ether'' and adding an entry ''Dichloroisopropyl ether—6.0×10^{-2}'' in its place;

■ ii. Removing the entry ''[Bis(2-Chloroisopropyl) either]—6.0×10^{-2}'';

■ iii. Removing the entry ''Arochlor [total of Arochlors 1016, 1221, 1232, 1242, 1248, 1254, 1260]—5.0×10^{-4}'' and adding an entry ''Aroclor [total of Aroclors 1016, 1221, 1232, 1242, 1248, 1254, 1260]—5.0×10^{-4}'' in its place; and

■ f. Revising Condition (6)(c).

The revisions and additions read as follows:

Appendix IX to Part 261—Wastes Excluded Under §§ 260.20 and 260.22

* * * * *

TABLE 2—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	*	* * * * * * *
United States Department of Energy (Energy).	Richland, Washington	* * * Conditions: (1) * * * (a) * * * (i) Complete sufficient characterization of the waste stream to demonstrate that the waste stream is within the treatability envelope of 200 Area ETF as specified in Tables C–1 and C–2 of the delisting petition dated November 29, 2001, as amended. Results of the waste stream characterization and the treatability evaluation must be in writing and placed in the facility operating record, along with a copy of Tables C–1 and C–2 of the November 29, 2001 petition, as amended. Waste stream characterization may be carried out in whole or in part using the waste analysis procedures in the Hanford Facility RCRA Permit, WA7 89000 8967; (ii) Prepare a written waste processing strategy specific to the waste stream, based on the ETF process model documented in the November 29, 2001 petition, the March 31, 2021 modification request, and Tables C–1 and C–2 of the November 29, 2001 petition, as amended. For waste processing strategies applicable to waste streams for which organic envelope data is provided in Table C–2 of the November 29, 2001 petition, as amended, Energy shall use envelope data specific to that waste stream, if available. Otherwise, Energy shall use the minimum envelope in Table C–2. (b) Energy may modify the 200 Area ETF treatability envelope specified in Tables C–1 and C–2 of the November 29, 2001 delisting petition, as amended, to reflect changes in treatment technology or operating practices upon written approval of the Regional Administrator. Requests for modification shall be accompanied by an engineering report detailing the basis for a modified treatment envelope. Data supporting modified envelopes must be based on at least four influent waste stream characterization data points and corresponding treated effluent verification sample data points for wastes managed under a particular waste processing strategy. Treatment efficiencies must be calculated based on a comparison of upper 95 percent confidence level constituent concentrations. Upon written EPA approval of the engineering report, the associated inorganic and organic treatment efficiency data may be used in lieu of those in Tables C–1 and C–2 for purposes of condition (1)(a)(i). (c) Where operation of the 200 Area ETF for purposes of gathering data supporting a modified treatability envelope pursuant to Condition (1)(b) requires operation outside of an existing treatability envelope or where a new treatability envelope is to be proposed, Energy may request interim approval to conduct such demonstration testing for purposes of developing a new or modified treatability envelope. Such a request must include the following documentation: (i) An Engineering Report documenting the basis for a modified treatability envelope. The Engineering Report shall, based on best available information, document that operation of the 200 Area ETF during the period of interim approval can be reasonably expected to produce treated effluent satisfying the delisting levels in Condition (5). The Engineering Report shall include, but is not limited to, engineering calculations, process modelling results, or performance data provided by equipment manufacturers; (ii) A demonstration test plan documenting the following: (A) The quantity and characterization of the waste stream to be used in conducting demonstration testing, and information that will be included in the waste processing strategy required by Condition (1)(a)(ii) for the demonstration testing. The test plan shall document, to a reasonable degree of certainty, that data gathered from the demonstration testing will be suitable for use in modifying the treatability envelope pursuant to Condition (1)(b). The test plan may include provisions for ‘‘spiking’’ the demonstration test waste feed to ensure that a waste feed meeting the requirements of the test plan is available;

TABLE 2—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(B) A sampling and analysis plan with supporting systematic planning documentation (*e.g.,* Data Quality Objectives) and with an associated Quality Assurance Project Plan, for all sampling and analysis specific to the demonstration testing. A minimum of four independent sample sets over the course of the demonstration test are required from both the influent to the 200 Area ETF and the effluent to the verification tanks; (C) A schedule for conducting the demonstration testing. The demonstration testing schedule may be based on functional criteria in addition to or in lieu of fixed calendar dates. The testing schedule may contain contingencies for revising the test plan should additional testing be required to obtain the required performance data points. Energy may not commence demonstration testing until written interim approval is obtained from the Regional Administrator. The effect of interim approval shall be limited to relief from the requirement of operating within the treatability envelope specified in Tables C–1 and C–2 of the November 29, 2001 delisting petition, as amended, during the period of demonstration testing. Interim approval shall remain in effect only for the duration of the demonstration testing as documented in the required testing schedule. Within 60 days following completion of demonstration testing, or such other time as may be approved in writing by the EPA, Energy shall submit a written completion report documenting analysis of data gathered during the demonstration test. Energy may request an extension of interim approval for the period of time between completion of the demonstration testing and final approval of the modified treatability envelope. The EPA may approve amendments to the demonstration test plan, including the associated schedule, as necessary to successfully complete demonstration testing. The EPA's written approval of the completion report shall be considered approval of the modified treatability envelope pursuant to Condition (1)(b).
* * * *	* * *	(e) * * * (iv) Key unit operations are defined as filtration, UV/OX, reverse osmosis, ion exchange, steam stripping, and secondary waste treatment.
* * * *	* * *	(5) * * * Dichloroisopropyl ether—6.0×10^{-2}
* * * *	* * *	Aroclor [total of Aroclors 1016, 1221, 1232, 1242, 1248, 1254, 1260]—5.0×10^{-4}
* * * *	* * *	(6) * * * (c) Records required by Condition (6)(a) must be furnished on request by EPA or the State of Washington and made available for inspection. All data must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the data submitted: "Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928). I certify that the information contained in or accompanying this document is true, accurate, and complete. As to the (those) identified section(s) of the document for which I cannot personally verify its (their) truth and accuracy, I certify as the official having supervisory responsibility of the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by EPA in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to Energy, I recognize and agree that this exclusion of waste will be void as if it never had effect to the extent directed by EPA and that Energy will be liable for Energy's reliance on the voided exclusion."

TABLE 2—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
*	*	* * * * * * *

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[FR Doc. 2021–19048 Filed 9–9–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Parts 77, 78, 79, 80, 201, and 206

[Docket ID: FEMA–2019–0011]

RIN 1660–AA96

FEMA's Hazard Mitigation Assistance and Mitigation Planning Regulations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This final rule revises the Federal Emergency Management Agency's Hazard Mitigation Assistance and mitigation planning regulations to reflect current statutory authority and agency practice.

DATES: This rule is effective October 12, 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: Katherine Fox, Assistant Administrator for Mitigation, Federal Emergency Management Agency, 202–646–1046, *Katherine.Fox5@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Discussion of the Rule

On August 28, 2020, the Federal Emergency Management Agency (FEMA) published a Notice of Proposed Rulemaking (NPRM) (85 FR 53474) to revise FEMA's Hazard Mitigation Assistance (HMA) program regulations to reflect current statutory authority and agency practice.[1] FEMA's HMA program regulations consist of the Flood Mitigation Assistance (FMA) grant program, the Hazard Mitigation Grant Program (HMGP), financial assistance for property acquisition and relocation of open space, and mitigation planning regulations. The NPRM proposed to revise the FMA grant program regulations to incorporate changes made by amendments to the National Flood Insurance Act of 1968 (NFIA).[2] The NPRM also proposed to update terms and definitions throughout the HMA and Mitigation Planning regulations to better align with uniform administrative requirements that apply to all Federal assistance.

The NPRM solicited public comment on these proposed changes. FEMA received five comments related to the rulemaking and one unrelated comment that was outside the scope of the rulemaking. (The unrelated comment was an expression of the commenter's political views and therefore not germane to this rule). FEMA does not consider the one unrelated comment in this preamble. In this final rule, FEMA adopts the changes it proposed in the NPRM with some minor revisions in consideration of the related comments as well as Title 2 of the Code of Federal Regulations (CFR) part 200. FEMA describes the comments received and changes to the final rule below.

II. Summary and Discussion of Public Comments

FEMA received five written responses to the amendments to its Hazard Mitigation Assistance (HMA) program regulations. All commenters submitted responses online at regulations.gov. FEMA reviewed each unique comment and considered whether to change the regulation in response to the comment. A summary of each comment and FEMA's response is provided below. Responses are listed in order of Docket ID number.

Individual Citizen, Docket ID FEMA–2019–0011–0003

This individual citizen recommended that FEMA eliminate the FMA program and reallocate those resources to be available for the purposes of obtaining open space. FEMA appreciates this comment and recognizes the importance of maintaining open space as a critical component of many hazard mitigation programs; indeed, this is why the acquisition of open space is one of the eligible project types under FEMA's HMA programs. However, FEMA lacks authority to eliminate the FMA program because FEMA is required by statute to implement this program (42 U.S.C. 4104c(a)(1)–(3)). FEMA also recognizes that a one size fits all approach to hazard mitigation is not aligned with the comprehensive community and hazard mitigation planning processes.

Individual Citizen, Docket ID FEMA–2019–0011–0004

This individual citizen recommended that the definition of ''community'' be expanded to include community organizations. In response, FEMA notes that ''community'' is defined in statute in 42 U.S.C. 4104c(h)(1) and as a result, FEMA cannot reinterpret, expand or change this definition. Although private nonprofits and other private sector entities such as businesses, industry associations, native corporations, and individuals are unable to apply for FEMA's HMA programs based on statute, FEMA encourages partnerships and recognizes that these entities can provide value to projects eligible for HMA funding.

The Association of State Floodplain Managers, Docket ID FEMA–2019–0011–0005

The Association of State Floodplain Managers (ASFPM) is an organization of professionals involved in floodplain management, flood hazard mitigation, the flood insurance, and flood preparedness, warning and recovery. The ASFPM Flood Mitigation Committee submitted a number of comments on behalf of the organization.

First, the ASFPM expressed concerns that the proposed 44 CFR 77.7(b) states that ''[Pre-award] costs can only be incurred during the open application period for the FMA program.'' Under FEMA's current practice, eligible pre-award costs may be incurred prior to application submission (limited by 44 CFR 79.8 to costs incurred during the open application period). However, it is not FEMA's intent to disallow otherwise

[1] FEMA has already implemented most of the changes discussed in this Final Rule through the *Hazard Mitigation Assistance Guidance* in 2013. *See* FEMA, Hazard Mitigation Assistance Guidance, Feb 27, 2015, available at *https://www.fema.gov/sites/default/files/2020-04/HMA_Guidance_FY15.pdf* (last accessed Feb 5, 2021). FEMA is now updating its HMA regulations to reflect these changes.

[2] 42 U.S.C. 4001 *et seq.*

eligible pre-award costs that were incurred prior to the open application period. In response to this comment, FEMA has removed the statement referenced above from 44 CFR 77.7(b). Costs incurred prior to award may be reimbursed if they meet the eligibility requirements and are in compliance with 2 CFR part 200 Subpart E, Cost Principles. Pre-award costs include costs directly related to developing an application or subapplication that are incurred prior to the date of the grant award and are allowed subject to FEMA approval at time of award. Such costs may include gathering National Environmental Policy Act (NEPA) data or developing a Benefit Cost Analysis (BCA), preparing design specifications (including the development of elevation plans), or conducting workshops or meetings related to development and submission of subapplications.

Second, the ASFPM identified that the proposed 44 CFR 77.6(c)(2)(vi) states, ''Non-localized flood risk reduction projects such as dikes, levees, floodwalls, seawalls, groins, jetties, dams and large-scale waterway channelization projects are not eligible,'' which is inconsistent with recent Notices of Funding Opportunity (NOFOs) speaking to the eligibility of ''community mitigation projects,'' which could qualify as non-localized flood risk reduction projects. It is not FEMA's intent for these project types to be ineligible under all circumstances. In response to this comment, FEMA has added language to 44 CFR 77.6(c)(2)(vi) for clarity and consistency with 42 U.S.C. 4014c(c)(3)(E), limiting funding to localized projects, except in rare instances. As a result, 44 CFR 77.6(c)(2)(vi) now reads, ''Non-localized flood risk reduction projects such as dikes, levees, floodwalls, seawalls, groins, jetties, dams and large-scale waterway channelization projects are not eligible unless the Administrator specifically determines in approving a mitigation plan that such activities are the most cost-effective mitigation activities for the National Flood Mitigation Fund.'' This change to the regulatory text reflects a change in FEMA's current practice and emphasizes that 42 U.S.C. 4014c allows the option to authorize these project types in very rare circumstances.

Third, the ASFPM noted that the revised HMA regulations do not specifically list project scoping (previously known as ''advance assistance'') as an eligible activity under the proposed 44 CFR 77.6(c). However, project scoping is an eligible activity under FEMA's current practice. In response to this comment, therefore, FEMA has added paragraph (4) to the list of eligible activities in 44 CFR 77.6(c), it reads: ''*Project Scoping.* Activities that enable subapplicants to develop complete subapplications for eligible mitigation activities including but not limited to data development.''

Fourth, the ASFPM commented that punishing a State for an individual community's land use violation by withholding funding from the entire State (as outlined in the proposed 44 CFR 80.19(e)(2)) seems mismatched and extreme, and suggested that withholding award or assistance be limited to the community that is in violation. The relationship between the State as the recipient, and a local community as a subrecipient is defined in 2 CFR 200.1, 200.332, and 200.339. The penalty of holding the State accountable for a community violation is consistent with the State acting as the recipient of the grant and being primarily responsible for compliance with grant terms. As a result, FEMA has determined to retain in 44 CFR 80.19(e)(2) the option to enforce this penalty as a result of land use noncompliance. This is consistent with FEMA's current practice.

Fifth, the ASFPM identified the ongoing problem that States and communities are unable to access data on repetitive loss properties, severe repetitive loss properties, and National Flood Insurance Program (NFIP) insured structures due to FEMA's current restriction on privacy data. The ASFPM stated that this information is needed for the purposes of FEMA's application processes and the development of hazard mitigation plans. FEMA appreciates this feedback, is aware of this issue, and is currently working to address this problem throughout the Federal Insurance and Mitigation Administration (FIMA). In working on this issue, it is FEMA's intent to arrive at a solution that will both protect government interests and property owners' privacy, while also making the information that is needed accessible to communities.

Individual Citizen, Docket ID FEMA–2019–0011–0006

This individual citizen spoke to the value and benefits of nature-based solutions and suggested that FEMA explicitly speak to nature-based solutions within the regulation. In response, FEMA notes that nature-based solutions are eligible under FMA under localized flood risk reduction projects or other activities as identified in a community's hazard mitigation plan, as has been FEMA's current practice. FEMA recognizes and embraces nature-based solutions as an approach to project design that can be applied to many different project types, but on its own is not a separate project type. Therefore, FEMA does not intend to identify and speak to nature-based solutions as a specific project type within the regulation. However, FEMA continues to advocate for the incorporation of nature-based solutions into mitigation activities funded through HMA grants.

Individual Citizen, Docket ID FEMA–2019–0011–0007

This individual citizen encouraged FEMA to allow for the use of eminent domain for the purpose of carrying out involuntary buyout projects. The commenter speaks to proposed 44 CFR 80.11(a), which states ''Eligible acquisition projects are those where the property owner participates voluntarily, and the recipient/subrecipient will not use its eminent domain authority to acquire the property for the open space purposes should negotiations fail.'' FEMA does not intend to change the voluntary component of 44 CFR 80.11; however, FEMA offers clarification that this voluntary limitation is only applicable to open space projects. Voluntary property owner participation is not required under other project types. For example, if a community wanted to submit an application for a flood retention or control project, it could exercise its eminent domain powers to acquire applicable parcels. Furthermore, in response to this comment, FEMA notes that it is up to recipients to prioritize and submit projects for funding as outlined in 44 CFR 77.3(b)(3).

III. Changes to Final Rule

In response to the comment that noted inconsistencies with the regulatory text and Fiscal Year 2020 NOFOs for Flood Mitigation Assistance grants, the proposed 44 CFR 77.6(c)(2)(vi) now reads, ''Localized flood risk reduction projects that lessen the frequency or severity of flooding and decrease predicted flood damages, and that do not duplicate the flood prevention activities of other Federal agencies. Non-localized flood risk reduction projects such as dikes, levees, floodwalls, seawalls, groins, jetties, dams and large-scale waterway channelization projects are not eligible unless the Administrator specifically determines in approving a mitigation plan that such activities are the most cost-effective mitigation activities for the National Flood Mitigation Fund.''

In response to the comment that project scoping (previously known as ''advance assistance'') is not listed as an

eligible activity under the proposed 44 CFR 77.6(c), FEMA has added § 77.6(c)(4): ''*Project Scoping.* Activities that enable subapplicants to develop complete subapplications for eligible mitigation activities including but not limited to data development.''

In response to the comment that expressed concerns regarding the statement ''[Pre-award] costs can only be incurred during the open application period for the FMA program,'' this statement has been removed. Section 77.7(b) now reads, ''Pre-award costs. FEMA may fund eligible pre-award costs related to developing the application or subapplication at its discretion and as funds are available. Recipients and subrecipients may be reimbursed for eligible pre-award costs for activities directly related to the development of the project or planning proposal. Costs associated with implementation of the activity but incurred prior to award are not eligible. Therefore, activities where implementation is initiated or completed prior to award are not eligible and will not be reimbursed.''

In addition to the above and in order to align with 2 CFR part 200, FEMA removed its proposed definition of ''management costs'' in the proposed 44 CFR 77.2. The NPRM's proposed definition of ''management costs'' inadvertently tied it to FEMA's regulations implementing its authority under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (''Stafford Act'').[3] However, the FMA Program is not authorized under the Stafford Act, but rather the National Flood Insurance Act.[4] As a result, direct and indirect administrative costs are governed by the cost principles of 2 CFR part 200 Subpart E, and FEMA has added the phrase ''(direct and indirect administrative costs pursuant to 2 CFR part 200 Subpart E)'' in 44 CFR 77.7(a)(1)(i) to clarify this. Because the FMA Program is authorized under the National Flood Insurance Act, FEMA also added the National Flood Insurance Act both to the Authority citation for 44 CFR part 201 and to section 201.1. Lastly, to conform with updates to 2 CFR published on August 13, 2020,[5] and other updates to statutory citations, FEMA removed the phrase ''to carry out an activity under the FMA program'' in the definition of ''recipient'' in 77.2(h) and updated citations to 2 CFR part 200 and 25 U.S.C. 5131 as necessary.

[3] Public Law 93–288 (42 U.S.C. 5121–5207); *see* 44 CFR part 207.

[4] 42 U.S.C. 4104c.

[5] 85 FR 49506.

IV. Regulatory Analysis

A. Executive Order 12866, as amended, Regulatory Planning and Review

Executive Orders 12866 (''Regulatory Planning and Review'') and 13563 (''Improving Regulation and Regulatory Review'') 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it.

FEMA did not receive any public comments relating to the RIA in the NPRM and has made no changes to this Regulatory Analysis as a result. Additionally, changes made to the Final Rule due to public comments were due to clarifications in regulatory text, and changes made to better conform the text with statute. These changes will not have an economic impact, and FEMA does not address them further in this analysis.

Need for Regulation

The Biggert-Waters Flood Insurance Reform Act of 2012 (BW–12), Public Law 112–141, 126 Stat. 916, amended the National Flood Insurance Act of 1968 (NFIA) to require changes to FEMA's Hazard Mitigation Assistance (HMA) programs. FEMA implemented most of these changes through the *Hazard Mitigation Assistance Guidance* in 2013.[6] FEMA is now updating its HMA regulations to reflect these changes.

Following guidance in OMB Circular A–4, FEMA assessed the impacts of this rule against a no-action baseline as well as a pre-statutory baseline. The no-action baseline is an assessment against what the world would be like if the rule is not adopted. The pre-statutory baseline is an assessment against what the world would be like if the relevant statute(s) had not been adopted and, in this case, already been implemented through guidance.

Under a no-action baseline, this rule results in cost savings to FEMA, and familiarization costs to HMA recipients. Under a pre-statutory baseline, this rule results in familiarization costs to HMA recipients, cost savings to FEMA, distributional impacts, and qualitative benefits, but no marginal costs. The annual distributional impact of this rule is estimated at $24.96 million[7] in increased transfers from FEMA to HMA recipients.

FEMA addressed the substantive changes in this analysis and presented how they affect costs, benefits, and transfers. The remaining changes are nonsubstantive, meaning they are technical and include definitional updates and other changes that modernize and standardize regulations, reduce redundancy, or increase readability. The nonsubstantive changes do not have an economic impact. FEMA included a detailed marginal analysis table that summarizes the substantive and nonsubstantive changes in this rule and the related impacts in the public docket for this rulemaking available on *www.regulations.gov* under Docket ID FEMA–2019–0011–0002.

Affected Population

This rule affects all recipients of FEMA's Flood Mitigation Assistance (FMA) grants. Recipients include 56 State and territorial governments and 574 Indian Tribal governments.[8] Local governments and governmental organizations such as flood districts and sewer districts are considered subrecipients and must apply through a State or Indian Tribal government. For simplicity, FEMA refers to the affected population as ''recipients'' throughout the analysis, except in cases where there are different requirements for recipients or subrecipients.

Baselines

BW–12 made substantial changes to FEMA's HMA programs. FEMA implemented most of these changes via the HMA Guidance in 2013. FEMA is now codifying those changes in this rule. Following guidance in OMB Circular A–4, FEMA assessed the impacts of this rule against a pre-statutory baseline covering 2006–2012

[6] FEMA, Hazard Mitigation Assistance Guidance, Feb 27, 2015, available at *https://www.fema.gov/sites/default/files/2020-04/HMA_Guidance_FY15.pdf* (last accessed Feb 5, 2021).

[7] In the NPRM, FEMA incorrectly stated in the introductory text of the RIA that the annual distributional impact of the rule was $4.16 million in transfers. 86 FR 53474 at 53490. However, this was a clerical error which appeared in that sentence and was not repeated in the remainder of the document. As noted in the remainder of the RIA, the correct estimate was $28.4 million. 86 FR 53474 at 53491 (Table 1); 53495 (text and Footnote 113); and 53496 (Table 8–A–4).

[8] Indian Entities Recognized by, and Eligible to Receive Services from the United States Bureau of Indian Affairs, 86 FR 7554, (Jan. 29, 2021).

(pre-BW–12) and a no-action baseline covering 2013–2019 [9] (post-BW–12).

The pre-statutory baseline shows the effects of the rule compared to the current regulations (*i.e.,* as if FEMA had not already implemented the changes through the HMA Guidance). The no-action baseline shows the effects of the rule compared to current FEMA practice (*i.e.,* compared to the HMA Guidance, which reflects FEMA's current practice, but not the current regulations).

Under the pre-statutory baseline, the rule has distributional impacts and qualitative benefits. The distributional impacts affect recipients of Repetitive Loss (RL) grants and Severe Repetitive Loss (SRL) grants that were combined into the FMA program pursuant to BW–12. Under BW–12, RL and SRL properties received increased assistance, while standard mitigation properties received decreased assistance. Under the no-action baseline, the only impacts are implementation costs and Federal cost savings. Table 1 shows the impacts of this rule under the pre-statutory and no-action baselines.

TABLE 1—ANNUAL EFFECTS OF RULE UNDER PRE-STATUTORY AND NO-ACTION BASELINES

[2019$]

Baseline	Costs	Benefits	Transfers
Pre-Statutory	$1,041 (year 1 only)	Qualitative	$24.96 million from FEMA to grant recipients.
No-Action	$1,041 (year 1 only)	$81,159	None.

Effects

The primary effects of BW–12 that are codified by this rule resulted from changes in the Federal cost shares. A cost share is the portion of the costs of a Federally assisted project or program borne by the Federal Government. FEMA pays a portion of the cost of a project, or the Federal cost share, and the recipient pays the remaining share.

FMA Grant Cost Sharing Changes. The current regulations still reflect the pre-BW–12 cost share provisions of the RL and SRL grant programs. BW–12 modified these two programs and FEMA implemented the modifications in the 2013 HMA Guidance. The newly expanded FMA program now serves the recipients of these grant programs.

BW–12 increased the RL Federal cost share from 75 percent to between 75 and 90 percent, and increased the SRL Federal cost share from between 90 and 100 percent to 100 percent. Table 2 shows the cost shares by type of grant.

TABLE 2—COST SHARE BY TYPE OF GRANT

Baseline	RL		SRL	
	FEMA cost share (%)	Recipient cost share (%)	FEMA cost share (%)	Recipient cost share (%)
Pre-Statutory (2006–2012) Pre-BW–12	75	25	90 to 100	10 to 0.
No-Action (2013–2019) Post-BW–12	75–90	10–25	100	0.

Lowering the Cap and Removing the Frequency Restriction. Prior to BW–12, FMA funds for the development or update of the flood portion of community multi-hazard mitigation plans were capped at $150,000 in Federal funding for States and $50,000 for communities, with a total cap of $300,000 in Federal funding for applications statewide. FEMA could not award State or community planning grants more than once every 5 years.

BW–12 limited FMA grant funds to develop or update the flood portion of community multi-hazard mitigation plans to a $50,000 Federal share to any recipient or a $25,000 Federal share to any subrecipient. BW–12 also removed the restriction on awarding State or community planning grants more than once every 5 years. FEMA discusses the impacts of these changes in the costs section.

Shifting from State Allocations to Competition. Prior to BW–12, FEMA annually allocated FMA program funding to recipients based on the number of insured properties and RL properties present within the recipient's jurisdiction. Recipients that did not meet the minimum threshold to receive a target allocation had to apply against funds that were set aside for this purpose. BW–12 replaced this process with a fully competitive program that selects subapplications against agency priorities identified annually. This change allows FEMA to identify and mitigate properties with the highest risk from flooding, thereby providing the greatest savings to the NFIP.

Costs

Costs for this rule result from implementation of the rule, rather than the 2013 HMA Guidance. FEMA estimated these costs against the no-action baseline since these are directly attributable to updating the text of the regulation, and not program changes that FEMA already implemented.

Familiarization Costs. FEMA estimated familiarization costs for States, but not for local emergency management divisions or jurisdictions. FEMA assumed States regularly update their emergency response networks and notify local emergency management divisions on any changes. FEMA believes that States will continue to disseminate the new information through each State's established process. FEMA assumed that each State grant recipient will have two personnel that will need to familiarize themselves and understand the rule by reading the existing and new regulations to understand the changes. FEMA expects each person to spend one hour to become familiar with the changes. FEMA assumes that the rule is likely to be reviewed by each State's Emergency Management Director and one administrative support personnel. FEMA assumes that the U.S. Bureau of Labor Statistics (BLS) occupations

[9] 2019 is the last year complete data is available.

Emergency Management Director (SOC: 11–9160, mean hourly wage $39.68) [10] and First-Line Supervisor of Office and Administrative Support Workers (SOC: 43–1010, mean hourly wage $28.91) [11] are most representative of these roles in a State. Using the 1.46 multiplier,[12] the fully loaded wage rates are $57.93 and $42.21 respectively. The estimated total cost of recipients making themselves familiar with the rule is $5,608 in year 1 ($1,041 per year annualized at 7 percent over 7 years, and $900 at 3 percent). ((56 recipients × 1 hour × $57.93 wage) + (56 recipients × 1 hour × $42.21 wage) = $5,608)

Summary of Costs. FEMA estimated the rule has familiarization costs of $5,608 in the first year of implementation. FEMA assumed that all staff and resources will come from existing sources and thus represent an opportunity cost.

Benefits

This rule will be beneficial to both FEMA and Hazard Mitigation Grant recipients. While the benefits are not quantifiable, FEMA believes that changes implemented by BW–12 allow it to target the most vulnerable properties, and streamline the mitigation grant process. Under the no-action baseline, most changes in this rule are technical and include definitional updates and other changes made to harmonize FEMA regulations with current FEMA practices and HMA guidance, modernize and standardize the regulations, reduce redundancy, or increase readability. These changes are largely nonsubstantive and do not have an economic impact.

Cost Savings. FEMA estimated annual costs savings of $81,159 resulting from removal of the definition of ''market value'' at 44 CFR 79.2(f) and (g). The removal of ''market value'' is new to this regulation and was not implemented in previous guidance. Currently, the regulation requires FEMA to use the market value of a structure when making grant determinations. Removal of this requirement allows FEMA to consider the value of the structure listed on the flood insurance policy when considering a grant request related to a vulnerable structure, rather than the ''market value.'' This results in a reduction in the time it takes FEMA personnel to review a grant application. Using ''market value'' required additional research and appraisals, whereas the flood insurance property value is readily available to FEMA personnel. FEMA estimates that this change reduces the personnel time it takes to review a grant application by an estimated 2 hours per review for a total of $81,159 annually. The removal of ''market value'' may impact grant amounts due to possible differences from the insured value, but FEMA does not have data available to estimate this impact.

FEMA based its estimates on the estimated annual average number of FMA grant applications that required a market value review between 2013 and 2019 and the wage rates of the personnel reviewing the grants. The annual average number of grant requests was 545. Table 3 shows the annual number of grant requests for vulnerable properties that required a market value review between 2013 and 2019.

TABLE 3—ANNUAL GRANT REQUESTS REQUIRING MARKET VALUE REVIEW

Year	FMA Program
2013	552
2014	374
2015	678
2016	832
2017	743
2018	485
2019	149
Total	3,813
Annual Average	545

Reviews of the grant applications can vary widely from simple—all documentation accompanies the request and requires very little follow-up—to complex. For this analysis, FEMA chose to capture the variability in the grant application reviews by using a weighted average of the hours it takes to complete the reviews. FEMA estimated that 25 percent of the reviews are simple; these reviews take 8 hours each on average to complete. Reviews of applications that are average in their complexity comprise 50 percent of the reviews and are assumed to take 12 hours each. Twenty-five percent of the reviews are complex and take 16 hours on average to complete.[13] Taking a weighted average of the times listed and using the distribution of 25 percent simple/50 percent average/25 percent complex, FEMA estimated that grant application reviews take 12 hours on average to complete. ([(0.25 × 8) + (0.50 × 12) + (0.25 × 16)] = 12 hours)

Program Specialists (GS 13, step 5) and contracted Civil Engineers conduct the reviews, the Program Specialists conduct 75 percent of reviews and the Civil Engineers conduct the remaining 25 percent. The fully-loaded average hourly wage for GS 13, step 5 at the FEMA regional locations is $77.20 [14] and FEMA estimates $66.23 [15] is the fully-loaded hourly wage rate for Civil Engineers. Using the 12-hour average estimate for reviewing the grant application, FEMA estimated that each year it spends $486,952 on average to review FMA grant applications. ([(545 grant reviews × 12 hours per review × $77.20 hourly wage for Program Specialist × 0.75) + ([(545 grant reviews × 12 hours per review × $66.23 hourly wage for Civil Engineer × 0.25)] = $486,952.05)

FEMA estimated that removing the definition of ''market value'' will reduce its administrative burden by 2 hours per review. This results in each review taking 10 hours instead of 12, on average. Using the same calculation as above and 10 hours instead of 12 hours per review, FEMA's average amount spent each year on reviewing FMA grant applications will be $405,793 and results in an estimated annual cost savings of $81,159. ($486,952 − $405,793 = $81,159)

Clarification of Mitigation Grant Terms and Conditions. The current HMA grant program regulations contain inconsistencies or vague language that may cause confusion. Specifically,

[10] May 2019 National Occupational Employment and Wage Rates, National File (xls), First-Line Supervisors of Office & Admin Support Workers (SOC: 43–1010, Average, Column Title: H_Mean). Accessed and downloaded Feb 8, 2021. *https://www.bls.gov/oes/tables.htm.*

[11] May 2019 National Occupational Employment and Wage Rates, National File (xls), Emergency Management Directors (SOC: 11–9160, Average, Column Title: H_Mean). Accessed and downloaded Feb 8, 2021. *https://www.bls.gov/oes/tables.htm.*

[12] December 2019 Bureau of Labor Statistics, Employer Costs for Employee Compensation, Table 1. Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Civilian workers, by major occupational and industry group, page 4 ($37.73/$25.91). Accessed and downloaded Feb 8, 2021. *https://www.bls.gov/news.release/archives/ecec_06182020.pdf.*

[13] FEMA personnel who review the FMA grant requests provided the information on the average time to review and the discussion of complexity.

[14] Based on the OPM General Schedule of Pay, January 2019, the average base wage of GS 13, step 5 in each of the FEMA regional office locations is $52.88 (Boston, MA; New York, NY; Philadelphia, PA; Atlanta, GA; Chicago, IL; Denton, TX; Kansas City, MO; Denver, CO; Oakland, CA; and Bothell, WA), which is multiplied by a 1.46 benefits multiplier (December 2018, BLS Employer Costs for Employee Compensation) to get a fully loaded wage rate of $77.20/hour. Accessed and downloaded Feb 9, 2021. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2019/general-schedule/.*

[15] Based on Bureau of Labor Statistics May 2019 National Employment and Wage Rate, National File (xls), a Civil Engineer, SOC 17–2050, has a base wage of $45.36, which is multiplied by a benefits multiplier of 1.46 (December 2019, BLS Employer Costs for Employee Compensation) to get a fully loaded wage rate of $66.23/hour. Accessed and downloaded Feb 8, 2021. *https://www.bls.gov/oes/tables.htm.*

FEMA will add definitions for ''Federal award'' and ''pass-through entity;'' and replace definitions of ''grantee,'' ''subgrant,'' and ''subgrantee'' with ''recipient,'' ''subaward,'' and ''subrecipient,'' respectively. These changes will make the HMA regulations consistent with FEMA's other regulations.

Revising, Adding, or Removing Definitions. FEMA is revising existing definitions for clarification purposes, add several definitions to conform with BW–12 and current agency practice, and delete others that are obsolete. FEMA believes the changes are clear and more consistent with definitions used in 2 CFR part 200 and the HMA Guidance.[16]

Shifting from Standard Mitigations to RL and SRL Structures. One of the main focuses of this rulemaking is on mitigation grants made to properties in the NFIP that have been repeatedly subject to costly loss claims. FEMA provides a range of available mitigation options including the FMA program to address vulnerable RL and SRL structures. Once a structure is mitigated through one of the programs, it could be protected from flooding, and can be removed from the repetitive flood loss list of un-mitigated properties insured by the NFIP. This reduces the flood vulnerability to RL and SRL structures, preventing further losses to the policyholders, as well as to FEMA. This benefit applies to the pre-statutory baseline, but not the no-action baseline because recipients and FEMA both realized this benefit beginning in 2013 when FEMA implemented it through the HMA Guidance.

Shifting from State Allocations to Competition. Before BW–12, FMA program funding was based on an allocation methodology that required an analysis of the number of insured properties and RL properties present within a jurisdiction and each State was allocated a share of the overall available funding. BW–12 changed this process to a fully-competitive program that allows FEMA to select subapplications according to FEMA priorities no matter the location.

This change lifted the constraints that were formerly in place against multiple eligible subrecipients in the same jurisdiction with vulnerable properties, allowing a more adequate coverage area within and across States and contributing to the increase in the size and volume of RL and SRL properties covered by each grant. FEMA is able to identify and mitigate properties with the highest risk from flooding and provide the greatest savings to the NFIP. This benefit applies to the pre-statutory baseline, but not the no-action baseline because recipients and FEMA both realized this benefit beginning in 2013 when FEMA implemented it through the HMA Guidance.

Eliminating the Limit on In-Kind Contributions. Eliminating the limit on in-kind contributions for a recipient's cost share modifies the nature, or make-up, of the recipient's contribution but does not change the overall dollar amount required for the recipient's contribution. FEMA believes this is advantageous because recipients and subrecipients are able to leverage their own optimal mix of in-kind and cash to meet their portion of the cost-share. There is no change to transfers between FEMA and grantees because the cost share does not change; however, the make-up of the recipient's portion changes.

Summary of Benefits. Under a no-action baseline FEMA believes this rule will promote a better understanding of the FMA program by updating the regulations that govern the HMA programs to conform with adjustments made by BW–12 and current agency practice. These changes will clarify existing requirements and help facilitate the flood portion of the Hazard Mitigation Grant Program processes.

FEMA estimated annual cost savings of $81,159 per year. Removing the definition of ''market value'' leads to cost savings to FEMA. Removing this definition will reduce the time it takes to conduct an initial grant application review by 2 hours.

Under a pre-statutory (pre-BW–12) baseline, FEMA believes there are considerable benefits associated with the shift to entirely competitive awards for the grants instead of the previous State-specific allocations, as well as the more flexible in-kind match option. The shift to more vulnerable RL and SRL properties by modifying the cost shares and giving priority to applications with the most vulnerable properties are expected to reduce the frequency of loss claims and promote community resiliency through mitigation. There are also qualitative benefits due to the elimination of the cap on FMA funding for States and communities and the opening of the program to a fully competitive award system. These changes enhance FEMA's ability to administer the FMA program in a more streamlined and cost effective manner. Removing State allocations of grant resources and accepting in-kind State contributions further streamline the program. Collectively, these benefits justify the rule and update FEMA's regulations to reflect current statutory authority.

Transfers

Federal Cost Shares. The adjustments in cost shares made by BW–12 result in distributional impacts, with certain grant programs receiving relative increases and decreases in grant funds. To analyze the impact of changes to the cost shares, FEMA summarized available mitigation project data for standard, RL, and SRL grants.[17]

Between 2006 and 2012 (pre-BW–12), FEMA provided a total of 390 grants to 244 recipients for 1,014 properties. The value of those grants was $292,374,087, with FEMA paying $205,762,109 and recipients paying $86,611,978. Table 4 shows the distribution of these grants by category.

TABLE 4—PRE-BW–12 MITIGATION PROJECTS AND ASSOCIATED VALUE BY GRANT CATEGORY

[2019$]

Year	Standard (≤75% Federal cost share)			Repetitive loss (75% Federal cost share)			Severe repetitive loss (90–100% Federal cost share)		
	Number of grants	Value of grants	Federal share obligated	Number of grants	Value of grants	Federal share obligated	Number of grants	Value of grants	Federal share obligated
2006	93	$39,020,873	$28,914,463				2	$150,655	$150,655
2007	85	46,309,864	33,827,089						

[16] Hazard Mitigation Assistance Guidance (HMA Guidance), Feb. 8, 2021, available at *https://www.fema.gov/sites/default/files/2020-04/HMA_Guidance_FY15.pdf* (last accessed Feb. 9, 2021).

[17] FEMA assumes that the mitigation project level grant data with applications comprising mixed property categories resulting in blended cost share percentages (any total cost share not equal to 100 percent, 90 percent, or 75 percent Federal) would be rounded up to the nearest threshold category. This would not round up project values or Federal cost shares in dollar terms, only their tabulation and consideration as RL or SRL. An application with a determined Federal cost share of 91–99 percent would be counted as part of the 100 percent SRL category, while applications with 76–89 percent Federal cost shares would be counted as part of the 90 percent Federal RL category.

TABLE 4—PRE-BW–12 MITIGATION PROJECTS AND ASSOCIATED VALUE BY GRANT CATEGORY—Continued
[2019$]

Year	Standard (≤75% Federal cost share)			Repetitive loss (75% Federal cost share)			Severe repetitive loss (90–100% Federal cost share)		
	Number of grants	Value of grants	Federal share obligated	Number of grants	Value of grants	Federal share obligated	Number of grants	Value of grants	Federal share obligated
2008	70	37,110,276	25,084,903	.....	.....	.....	1	35,166	31,649
2009	54	81,136,958	59,026,566	3	3,027,774	2,475,759	3	653,292	587,963
2010	35	32,715,929	22,915,763	2	1,480,940	897,864	.....	.....	.....
2011	17	17,530,961	11,234,999	.....	.....	.....	.....	.....	.....
2012	25	33,201,399	20,614,436	.....	.....	.....	.....	.....	.....
Average	54	41,003,751	28,802,603	0.71	644,102	481,946	0.86	119,873	110,038
Total	379	287,026,260	201,618,219	5	4,508,714	3,373,623	6	839,113	770,267

The 390 grants from pre-BW–12 were one of three types—Standard Mitigation (up to 75 percent Federal cost share); RL (75 percent Federal cost share); or SRL (90–100 percent Federal cost share). Prior to BW–12, there were 379 Standard Mitigation grants with a total value of $287,026,260. FEMA's share was $201,618,219 and the recipients' share was $85,408,041 (70 percent average Federal cost share). For RL grants, there were five grants with a total value of $4,508,714. FEMA's share was $3,373,623 and the recipients' share was $1,135,091 (75 percent Federal cost share). For SRL grants, there were six grants made with a total value of $839,113. FEMA's share was $770,267 and the recipients' share was $68,846 (92 percent Federal cost share).

Post-BW–12 (2013–2019), FEMA provided a total of 624 grants to 1,153 recipients for 9,737 properties. The total value of those grants was $829,481,486. FEMA's share was $758,759,675 and recipients' share was $70,721,811. Table 5 shows the distribution of these grants by category.

TABLE 5—POST-BW–12 MITIGATION PROJECTS AND ASSOCIATED VALUE BY GRANT CATEGORY
[2019$]

Year	Standard (≤75% Federal cost share)			Repetitive loss (75–90% Federal cost share)			Severe repetitive loss (100% Federal cost share)		
	Number of grants	Value of grants	Federal share obligated	Number of grants	Value of grants	Federal share obligated	Number of grants	Value of grants	Federal share obligated
2013	18	$10,917,788	$7,205,740	5	$12,120,501	$10,302,426	65	$100,175,666	$90,158,099
2014	28	8,888,593	5,333,156	5	6,853,281	5,825,289	68	74,883,110	75,631,941
2015	16	7,317,656	5,488,242	8	33,763,761	30,049,747	80	124,352,333	119,378,240
2016	26	11,975,567	8,861,920	12	29,656,451	25,207,983	99	173,836,284	159,929,381
2017	33	13,673,605	10,118,468	5	5,941,663	4,990,997	59	80,043,231	74,440,205
2018	5	5,261,224	3,525,020	16	27,467,838	24,171,697	44	76,784,839	74,481,294
2019	6	2,001,833	1,301,191	5	5,663,833	4,814,258	21	17,902,429	17,544,380
Average	19	8,576,609	5,976,248	8	17,352,475	15,051,771	62	92,568,270	87,366,220
Total	132	60,036,266	41,833,737	56	121,467,328	105,362,397	436	647,977,892	611,563,541

These 624 grants were one of three types—Standard Mitigation (up to 75 percent Federal cost share); RL (75–90 percent Federal cost share); or SRL (90–100 percent Federal cost share) (all post-BW–12 cost shares). There were 132 Standard Mitigation grants with a total value of $60,036,266. FEMA's share was $41,833,737 and the recipients' share was $18,202,529 (70 percent average Federal cost share). For RL grants, there were 56 grants with a total value of $121,467,328. FEMA's share was $105,362,397 and the recipients' share was $16,104,931 (87 percent Federal cost share). For SRL grants, there were 436 grants made with a total value of $647,977,892. FEMA's share was $611,563,541 and the recipients' share was $36,414,351 (94 percent Federal cost share).

These grants often include some ineligible costs, including cost overruns or underruns, the use of insurance proceeds that FEMA deducted as a duplication of benefits,[18] or Increased Cost of Compliance (ICC),[19] so the actual cost shares do not equal the percentages listed above. For example, although SRL grants have a 100 percent Federal cost share, the actual average Federal share was 94 percent.

Changing Cost Share Amounts and to a Fully Competitive Grant Process for FMA.

Changing the cost shares had a distributional impact, where the proportion of Federal funds increased while the recipients' proportion decreased by the same amount.

[18] Duplication of Benefits refers to assistance from more than one source that is used for the same mitigation purpose or activity. The purpose may apply to the whole project or only part of it. HMA funds cannot duplicate funds received by or available to applicants or subapplicants from other sources for the same purpose. Examples of other sources include insurance claims, other assistance programs (including previous project or planning grants and subawards from HMA programs), legal awards, or other benefits associated with properties or damage that are the subject of litigation. HMA does not require that property owners seek assistance from other sources (except for insurance claims). However, it is the responsibility of the property owner to report other benefits received, any applications for other assistance, the availability of insurance proceeds, or the potential for other compensation, such as from pending legal claims for damages, relating to the property. References: Sec. 312 of the Stafford Act; 44 CFR 79.6(d)(7); Hazard Mitigation Assistance Guidance (February 27, 2015), Part III, D.5, pages 31–32; HMA Tool for Identifying Duplication of Benefits *https://www.fema.gov/sites/default/files/2020-04/HMA_Guidance_FY15.pdf* (last accessed Feb 9, 2021).

[19] Increased Cost of Compliance (ICC) provides up to $30,000 to help cover the cost of mitigation measures that will reduce flood risk. ICC coverage is a part of most standard flood insurance policies available under the NFIP *https://www.fema.gov/media-library/assets/documents/1130* (last accessed Feb 9, 2021).

Similarly, the shift from State allocations of grant funding to a competitive-based program that allows grants to be allocated to the most vulnerable properties, resulted in distributional impacts where recipients in certain States receive more in grant funding where others see a decrease. FEMA was not able to isolate this effect from the effect of changing the cost shares, since they were implemented at the same time.

First, FEMA analyzed the shift in grant priorities as a distributional impact between grant programs. This was done by subtracting the total value of grants pre-BW–12 from the total value of grants post-BW–12 for each program, showing the relative decreases and increases by type of FMA grant caused by making the grants competitive and shifting funding to riskier properties.[20]

- The seven-year total share of standard mitigation grants decreased by $226,989,994 post-BW–12 ($60,036,266 − $287,026,260).
- The seven-year total share of RL grants increased by $116,958,614 post-BW–12 ($121,467,328 − $4,508,714).
- The seven-year total share of SRL grants increased by $647,138,779 post-BW–12 ($647,977,892 − $839,113).

This shows the total seven-year relative increases and decreases between FMA programs in terms of post-BW–12 grant funding: (− $226,989,994 for standard grants + $116,958,614 for SL grants + $647,138,779 SRL grants = $537,107,399).

Table 6 shows changes in the total number of grants as well as the Federal and non-Federal shares for all grants pre-BW–12 and post-BW–12 with the percent change in grants and funding.

TABLE 6—CHANGE IN AVERAGE ANNUAL NUMBER OF GRANTS AND FUNDING PRE-BW–12 TO POST-BW–12

[2019$]

	Pre-BW–12	Percent pre-BW–12	Post-BW–12	Percent post-BW–12	Percent change
Standard Mitigation					
Grants per Year	54	97.2	19	21.3	−75.9
Funding per year	$41,003,751	98.2	$8,576,609	7.2	−90.9
Repetitive Loss					
Grants per Year	0.71	1.3	8	9	+7.7
Funding per year	$644,102	1.5	$17,352,475	14.6	+13.1
Severe Repetitive Loss					
Grants per Year	0.86	1.5	62	69.7	+68.2
Funding per year	$119,873	0.3	$92,568,270	78.1	+77.8

When comparing pre-BW–12 standard mitigation grants to post-BW–12, the average annual total amount of funding dropped from $41 million to $8.6 million. For RL structures, the average annual amount of funding increased from $0.64 million to $17.4 million. For SRL structures, the average annual funding increased from $0.12 million to $92.6 million when compared to pre-BW–12. This reflects BW–12 shifting priority from standard mitigations to RL and SRL structures. FEMA's data indicate a trend toward both larger project sizes and an increased number of RL and SRL projects.

FEMA then analyzed the distributional impacts of the Federal cost shares that resulted from both the shift in priorities and the changes in cost shares. The Federal cost share for standard mitigation grants remained at 70 percent over the post-BW–12 period. The cost share for RL grants increased from an average of 75 percent pre-BW–12 to 87 percent post-BW–12. SRL grants had an average 92 percent cost share pre-BW–12 and a 94 percent cost share post-BW–12. FEMA also analyzed the change in the Federal cost share for the three grant categories together, which shows the impact of BW–12 changes to cost share amounts as well as shifting funding to RL and SRL grants, which have higher cost shares.

The total Federal share of all FMA grant categories pre-BW–12 was 70.4 percent [($205,762,109 ÷ $292,374,087) × 100]. Post BW–12, the Federal share was 91.5 percent [($758,759,675 ÷ $829,481,486) × 100]. The increase in transfers from FEMA to grantees as a result of the changed cost shares and changed priorities, in terms of post-BW–12 grant funding, was $174,739,761(91.5 percent − 70.4 percent × $829,481,486) over seven years, or an average increase of $24,962,823 per year.

Under a no-action baseline, this rule results in no transfer impacts, as FEMA has already implemented the updated cost share percentages in the 2013 HMA Guidance. Under a pre-statutory (pre-BW–12) baseline, the revisions to the cost share and re-prioritization to grants with higher cost shares result in distributional transfer impacts shifting funding to the most vulnerable properties and an increase in transfers from FEMA to grant recipients. The discounted total seven-year transfers from FEMA to grant recipients are $174,739,761 million ($24.96 million annual average).[21]

Mitigation Planning Grants. BW–12 lowered the funding cap on the amount of money that could be used for the flood portion of the individual multi-hazard mitigation plans from $150,000 in recipients and $50,000 for subrecipients to $50,000 per recipient and $25,000 per subrecipient, but removed a restriction that grantees could only receive funding for planning grants once every 5 years. Lowering the cap on Federal funds results in decreased funding per applicant. However, FEMA believes this is offset

[20] These figures include a large increase in grant funding post-BW–12 for the 3 programs resulting from Congressional appropriations that are not due to changes in from this rule. This increase in overall funding is not ''held constant'' in the comparisons shown. From 2006–2012, total funding was $292.4 million and from 2013–2019, total funding was $829.5 million.

[21] The annualized amounts for 3 percent and 7 percent are equal to the estimated annual transfers of $24.96 million because the amounts for each year are identical and the first year is discounted.

by the removal of the frequency restriction, which results in a negligible change in the number of approved applications and awards. FEMA found that the data does not show a substantial change in the number of applications, and thus FEMA assumed that the removal of the 5-year restriction is countered by the lowered cap on funding, resulting in minimal distributional impacts as shown in Table 7. Because FEMA implemented these changes concurrently, FEMA was unable to isolate the effects of individual changes.

TABLE 7—MITIGATION PLANNING GRANTS 2006–2019

[2019$]

Year	Applications	Approved grants	Average grant amount
2006	167	92	$291,961
2007	561	481	88,076
2008	523	374	83,738
2009	491	346	83,738
2010	364	288	82,992
2011	417	363	104,024
2012	173	155	144,992
Average Pre-BW–12	385	300	125,646
2013	260	228	117,107
2014	293	264	89,362
2015	351	315	94,685
2016	329	287	173,348
2017	422	377	100,049
2018	287	248	151,711
2019	149	116	105,929
Average Post-BW–12	299	262	118,884

Since 2013, FEMA has applied the new caps on funding for FMA planning grants per recipient and subrecipient. The caps align with and reflect FEMA's shift to focus the majority of FMA program funds on mitigating the risk to the most vulnerable properties. FEMA is no longer constrained by any limit on how often a recipient or subrecipient can receive a planning grant or the total amount that can be granted to a recipient. Further, the lower caps per recipient and subrecipient allow FEMA to assist more recipients and subrecipients.

Alternatives

Most of the changes in this rule are based on statute. FEMA has limited discretion in determining which changes to make. The changes that carry an economic impact under a pre-statutory (pre-BW–12) baseline are the changes to 44 CFR 79.4 (now 44 CFR 77.4): FMA Grant Federal Cost Shares and 44 CFR 79.6 (now 44 CFR 77.6): Flood Portion of Multi-Hazard Mitigation Plans. BW–12 prescribed these changes. These changes are neither new nor discretionary and FEMA did not consider alternatives.

Below, the OMB A–4 Accounting Statement presents the annualized costs, benefits, and transfer payments of the final rule in 2019 dollars using the no-action baseline. Accordingly, the below accounting statement shows the costs and benefits of this rule measured against what the world would be like if this rule were not adopted.

TABLE 8—A–4 ACCOUNTING STATEMENT—NO ACTION BASELINE

[2019$]

Period of analysis: 2021 to 2030			
Category	7 Percent discount rate	3 Percent discount rate	Source citation (RIA, preamble, etc.)
BENEFITS:			
Annualized Monetized	$81,159	$81,159	Preamble (RA).
Annualized Quantified	N/A	N/A.	
Qualitative	• Allows FEMA to target most vulnerable properties and streamline mitigation grant process. • Modernize and standardize regulations to align current practice with other FEMA programs and increase readability.		Preamble (RA).
COSTS:			
Annualized Monetized	$746	$638	Preamble (RA).
Annualized quantified	N/A	N/A.	
Qualitative	N/A		
TRANSFERS:			

TABLE 8—A–4 ACCOUNTING STATEMENT—NO ACTION BASELINE—Continued

[2019$]

Period of analysis: 2021 to 2030			
Category	7 Percent discount rate	3 Percent discount rate	Source citation (RIA, preamble, etc.)
Annualized Monetized	0	0	Preamble (RA).
From/To	N/A.		Preamble (RA).

Category	Effects	Source citation (RIA, preamble, etc.)
State, Local, and/or Tribal Government.	• Allows State, local, and Tribal governments to prioritize more vulnerable properties and simplifies the grant process.	Preamble (RA).
Small business	There were 391 small entity recipients from 2006–2019. Prior to BW–12, an average of 16 recipients per year were small entities. Post-BW–12, there was an average of 40 small entity recipients per year. Post-BW–12, small entities were more likely to receive RL or SRL grants and slightly less likely to receive standard mitigation grants, so the Federal cost shares (*i.e.,* the portion of the grant funded by FEMA) for small entities were, on average, higher post-BW–12.	Preamble (FRFA).
Wages	None.	
Growth	None.	

FEMA also assessed the impacts of this rule under the pre-statutory baseline. The pre-statutory baseline is an assessment against what the world would be like if the relevant statute(s) had not been adopted, and in this case, already been implemented through guidance. FEMA estimates the impact of the changes codified in this rule to primarily be an increase in transfers from FEMA to HMA recipients of $24.96 million annualized, due to the targeting of higher risk properties for grant funding. Additionally, the changes codified by this rule shifted from State-based allocations to a competitive process, allowing FEMA to select applications according to FEMA priorities rather than by location. This rule also eliminated limits on in-kind contributions, allowing recipients more flexibility to cover their portion of the cost shares. FEMA implemented the pre-statutory provisions of this rule in the 2013 HMA Unified Guidance.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agency review of proposed and final rules to assess their impact on small entities. When an agency promulgates a notice of proposed rulemaking under 5 U.S.C. 553, the agency must prepare a Final Regulatory Flexibility Analysis (FRFA) unless it determines and certifies pursuant to 5 U.S.C. 605(b) that a rule, if promulgated, will not have a significant impact on a substantial number of small entities. FEMA believes this rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FEMA examined the effects of the adjustments made by BW–12 and implemented by FEMA in the 2013 HMA Guidance on small entities. A small entity may be: A small independent business, defined as independently owned and operated, is organized for profit, and is not dominant in its field per the Small Business Act (5 U.S.C. 632); a small organization, defined as any not-for-profit enterprise which is independently owned and operated and is not dominant in its field (5 U.S.C. 601); or a small governmental jurisdiction (locality with fewer than 50,000 people) per 5 U.S.C. 601.

The rule directly affects all eligible FMA grant recipients. FEMA estimates that the changes from BW–12 affect FMA grant recipients that are small governmental jurisdictions with a population of less than 50,000, as defined at 5 U.S.C. 601(5).[22] To estimate the effects on small entities of the adjustments made by BW–12, and codified in this rule, FEMA used the same methodology used in the regulatory analysis.[23] In general, FEMA identified the affected population—recipients of FEMA's FMA grants—and analyzed how the changes affect those recipients. Using those results, FEMA then evaluated which recipients qualified as ''small entities.'' Eligible FMA grant recipients may include States, U.S. territories, and Indian Tribal governments; subrecipients may include local governments and governmental organizations such as flood, sewer, and water districts. FEMA removed from its RFA dataset and analysis any recipients that are States and U.S. territories because they have populations greater than 50,000. FEMA also removed any Indian Tribal governments because they are not included in the definition of a small entity.[24] The remaining recipients

[18] *See* 5 U.S.C. 601(3)–(6). In general, the term ''small entity'' can have the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction'' for purposes of this analysis. Specifically, section 601(3) defines a ''small business'' as having the same meaning as ''small business concern'' under section 3 of the Small Business Act. This includes any small business concern that is independently owned and operated that is not dominant in its field of operation. Section 601(4) defines a ''small organization'' as any not-for-profit enterprise that is independently owned and operated that is not dominant in its field of operation. Section 601(5) defines ''small governmental jurisdiction'' as governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000. Accessed and downloaded Feb 24, 2021. *http://uscode.house.gov/view.xhtml?req=(title:5section:601edition:prelim)* OR (*granuleid:U.S.C.-prelim-title5-section601) &f=treesort&edition=prelim&num=0&jumpTo=true.*

[23] FEMA's methodology is included in section IV. Regulatory Analysis of this final rule.

[24] The Regulatory Flexibility Act (RFA) defines a small entity as a small business, small nonprofit organization, or a small governmental jurisdiction. Section 601(5) defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or

were either local governments or governmental organizations. FEMA used the U.S. Census Bureau's annual population estimates for 2019 produced by its Population Estimates Program (PEP) [25] to determine the population for each recipient.[26] Table 9 summarizes the number of small entities affected by the changes in BW–12.

TABLE 9—ESTIMATED NUMBER OF SMALL ENTITIES AFFECTED BY THIS RULE

	Year	Grants to small entities	Properties within grants
Pre-BW–12	2006	30	67
Post-BW–12	2007	25	39
	2008	16	14
	2009	18	41
	2010	11	76
	2011	4	12
	2012	8	75
	2013	23	64
	2014	27	66
	2015	18	71
	2016	25	56
	2017	26	78
	2018	122	82
	2019	38	25
Total Small Entity Recipients		391	766
Total All Recipients		1,551	4,521
Small Entity Recipients as a Percent of Total Recipients		25.2%	17.0%
Pre-BW–12	Total	112	324
	Annual Average	16	46
Post-BW–12	Total	279	442
	Annual Average	40	63

Between 2006 and 2019, FEMA awarded a total of 1,551 FMA grants to mitigate flood risk to 4,521 properties. Of the total 1,551 recipients, 391 recipients, or 25.2 percent, had populations under 50,000 and are considered small entities. These small entities used the FMA grants to mitigate flood risk to 766 vulnerable properties. These 391 small entity recipients are all local governments.

Pre-BW–12, FEMA awarded 112 grants to small entities. Of these, 109 were for standard mitigation with an average Federal cost share of 73 percent, 2 were RL with an average Federal cost share of 82 percent, and 1 was SRL with a cost share of 90 percent.

TABLE 10—PRE-BW–12 PROJECTS AND VALUE BY GRANT CATEGORY (2019$) AWARDED TO SMALL ENTITIES

Year	Standard (≤75% Federal cost share)			Repetitive loss (RL) (75% Federal Cost Share)			Severe repetitive loss (SRL) (90%–100% Federal Cost Share)		
	Grants	Value of grants	Federal share obligated	Grants	Value of grants	Federal share obligated	Grants	Value of grants	Federal share obligated
2006	30	$6,014,828	$4,467,682						
2007	25	11,015,869	7,786,046						
2008	16	2,189,233	1,603,820						
2009	15	8,068,507	5,868,226	2	$2,393,363	$1,952,676	1	$59,465	$53,518
2010	11	15,403,139	11,551,457						
2011	4	2,950,334	2,079,950						
2012	8	6,509,829	4,876,130						
Total	109	52,151,739	38,233,311	2	2,393,363	1,952,676	1	59,465	53,518

Post-BW–12, FEMA awarded 279 grants to small entities. Of these, 40 were standard mitigation with an average Federal cost share of 69 percent, 3 were RL with an average Federal cost share of 88 percent, and 76 were SRL with an average Federal cost share of 90 percent. While the cost shares did not change significantly, more applicants received SRL grants when compared to the pre-BW–12 period. This shows the

special districts with a population of less than 50,000.

[25] FEMA used the U.S. Census Bureau's PEP estimates file entitled, ''sub-est2019_all.csv'' because it provided 2019 estimated populations for all States and all subgovernmental jurisdictions, including counties, parishes, etc., towns, cities, villages, etc. Accessed and downloaded Feb 24, 2021. *https://www2.census.gov/programs-surveys/popest/datasets/2010-2019/cities/totals/.*

[26] FEMA used the population of the county, parish, or borough in which the grant project was located as a proxy to determine the populations for governmental organizations. For example, FEMA used the New Castle County, DE 2019 population of 558,753 to determine if the New Castle Conservation District was a small entity. In this example, the population of 558,753 is greater than the 50,000 small entity threshold; thus, the new Castle Conservation District is not a small entity.

prioritization of more vulnerable properties.

TABLE 11—POST-BW–12 PROJECTS AND VALUE BY GRANT CATEGORY (2019$) AWARDED TO SMALL ENTITIES

Year	Standard (≤75% Federal cost share)			Repetitive loss (RL) (75%–90% Federal cost share)			Severe repetitive loss (SRL) (100% Federal cost share)		
	Grants	Value of grants	Federal share obligated	Grants	Value of grants	Federal share obligated	Grants	Value of grants	Federal share obligated
2013	8	$972,391	$435,490	1	$7,274,609	$6,452,685	14	$5,720,524	$3,778,669
2014	11	2,575,473	1,623,207	.....	.....	.....	16	12,558,967	12,235,583
2015	3	2,478,165	1,858,623	.....	.....	.....	15	10,676,146	10,007,363
2016	6	290,884	197,705	2	1,798,791	1,556,119	17	10,678,636	9,299,774
2017	12	5,191,261	3,881,929	.....	.....	.....	14	9,198,557	8,627,638
2018	41	1,703,802	1,109,366	3	2,014,308	1,764,641	78	16,081,572	14,090,559
2019	13	648,276	422,100	1	415,348	363,867	24	3,749,428	3,285,222
Total	94	13,860,253	9,528,420	7	11,503,056	10,137,312	178	68,663,830	61,324,808

This rule codifies legislative requirements included in the Biggert-Waters Flood Insurance Reform Act of 2012, Public Law 112–141, 126 Stat. 916 (BW–12), which amended the National Flood Insurance Act of 1968 (NFIA) and required changes to all major components of the National Flood Insurance Program (NFIP), including mitigation grants authorized under the NFIA. FEMA implemented the legislative requirements in BW–12 through policy/guidance in 2013 and is now codifying these changes in regulation, to reflect current agency practice, and to clarify existing regulations. Pursuant to 5 U.S.C. 605(b), FEMA certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

C. Unfunded Mandates Reform Act of 1995

Pursuant to Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on state, local, and Tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that ''before promulgating any rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement'' detailing the effect on State, local, and Tribal governments and the private sector. This rule does not result in such an expenditure, and thus preparation of such a statement is not required.

D. National Environmental Policy Act of 1969 (NEPA)

Section 102 of the National Environmental Policy Act of 1969 (NEPA), 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*) requires Federal agencies to consider the impacts of their proposed actions on the quality of the human environment. Each agency can develop categorical exclusions (catexes) to cover actions that have been demonstrated to not typically trigger significant impacts to the human environment individually or cumulatively. If an action does not qualify for a catex and has the potential to significantly affect the environment, agencies develop environmental assessments (EAs) to evaluate those actions. The Council on Environmental Quality's (CEQ) procedures for implementing NEPA, 40 CFR parts 1500 through 1508, require Federal agencies to prepare Environmental Impact Statements (EISs) for major Federal actions significantly affecting the quality of the human environment. At the end of the EA process, the agency will determine whether to make a Finding of No Significant Impact (FONSI) or whether to initiate the EIS process.

Under the National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.* an agency must prepare an Environmental Assessment (EA) and Environmental Impact Statement (EIS) for any rulemaking that significantly affects the quality of the human environment. FEMA has determined that this rulemaking does not significantly affect the quality of the human environment and consequently has not prepared an EA or EIS.

Catex A3 included in the list of exclusion categories at Department of Homeland Security Instruction Manual 023–01–001–01, Revision 01, Implementation of the National Environmental Policy Act, Appendix A, issued November 6, 2014, covers the promulgation of rules, issuance of rulings or interpretations, and the development and publication of policies, orders, directives, notices, procedures, manuals, and advisory circulars if they meet certain criteria provided in A3(a–f). This rule meets the criteria in A3(a), (b), (c), and (d). The rule makes a number of regulatory revisions that are strictly administrative. In addition, the rule amends an existing regulation without changing its environmental effect, and also implements, without substantive change, statutory requirements and guidance documents. Because no extraordinary circumstances have been identified, this rule does not require the preparation of either an EA or an EIS as defined by NEPA. *See* Department of Homeland Security Instruction Manual 023–01–001–01, Revision 01, Implementation of the National Environmental Policy Act, section (V)(B)(2).

E. Endangered Species Act

The Endangered Species Act (ESA) mandates that Federal agencies determine whether their proposed actions may affect listed species and/or their designated critical habitat (critical habitat has been designated for some, but not all listed species). Without authorization or exemption from Federal resource agencies, it is unlawful for any person, whether government employee or private citizen, to take listed animal species.

To comply with Section 7(a)(2) of the ESA, for every action that FEMA proposes to carry out, fund, or authorize, FEMA must first determine if species and habitat are present in the action area. If species are present in the

action area, then FEMA must make one of the following determinations with respect to the effect of the proposed action on listed species and critical habitat: (1) No effect (NE); 2) may affect, but is not likely to adversely affect (NLAA); or 3) may affect and is likely to adversely affect (LAA).

This rule has been evaluated by FEMA and due to the administrative nature, FEMA has determined the rule does not have the potential to affect federally-listed species or designated critical habitat. As such, a ''No Effect'' determination has been made for these activities. Per the ESA regulations, notification to, and consultation with, the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service are not required for activities with a ''No Effect'' determination.

F. National Historic Preservation Act of 1966

The National Historic Preservation Act (NHPA) (54 U.S.C. 300101, formerly 16 U.S.C. 470) was enacted in 1966, with various amendments throughout the years. Section 106 of the NHPA (54 U.S.C. 306108) requires Federal agencies to take into account the effect of their actions on any historic property. It mandates a consultation process in the early stages of project planning and must be completed prior to the approval of expenditure of any Federal funds for the undertaking. Subpart B of 36 CFR part 800 lays out a four-step Section 106 process to fulfill this obligation: (1) Initiate the process (800.3); (2) identify historic properties (800.4); (3) assess adverse effects (800.5); and (4) resolve adverse effects (800.6).

Pursuant to section 106 of the NHPA and its implementing regulations at 36 CFR part 800, FEMA has determined that this rule does not have the potential to cause effects to historic properties and in accordance with 36 CFR part 800.3(a)(1), FEMA has no further obligations under section 106.

G. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA), as amended, 44 U.S.C. 3501–3520, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency obtains approval from the Office of Management and Budget (OMB) for the collection and the collection displays a valid OMB control number. *See* 44 U.S.C. 3506, 3507. This rule contains collections of information that are subject to review by OMB. The information collections included in this rule are approved by OMB under control numbers 1660–0072 (Flood Mitigation Assistance (eGrants) and Grant Supplement Information), 1660–0062 (State/Local/Tribal Hazard Mitigation Plans), 1660–0026 (State Administrative Plan for the Hazard Mitigation Grant Program), and 1660–0076 (Hazard Mitigation Grant Program Application and Reporting). Currently, FEMA is working to reinstate 1660–0103 (Property Acquisition and Relocation for Open Space).

This rulemaking calls for no new collections of information under the PRA. This rule includes information currently collected by FEMA and approved in OMB information collections 1660–0072, 1660–0062, 1660–0026, and 1660–0076. Currently, FEMA is working to reinstate 1660–0103. The actions of this rulemaking do not impose any additional burden to this collection of information. The changes in this rulemaking do not change the forms, the substance of the forms, or the number of recipients who would submit the forms to FEMA.

H. Privacy Act/E-Government Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, an agency must determine whether implementation of a proposed regulation will result in a system of records. A record is any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his/her education, financial transactions, medical history, and criminal or employment history and that contains his/her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph. *See* 5 U.S.C. 552a(a)(4). A system of records is a group of records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. An agency cannot disclose any record which is contained in a system of records except by following specific procedures.

The E-Government Act of 2002, 44 U.S.C. 3501 note, also requires specific procedures when an agency takes action to develop or procure information technology that collects, maintains, or disseminates information that is in an identifiable form. This Act also applies when an agency initiates a new collection of information that will be collected, maintained, or disseminated using information technology if it includes any information in an identifiable form permitting the physical or online contacting of a specific individual. A Privacy Threshold Analysis was completed.

I. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249, November 9, 2000, applies to agency regulations that have Tribal implications, that is, regulations that have substantial direct effects 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. Under this Executive Order, to the extent practicable and permitted by law, no agency shall promulgate any regulation that has Tribal implications, that imposes substantial direct compliance costs on Indian Tribal governments, and that is not required by statute, unless funds necessary to pay the direct costs incurred by the Indian Tribal government or the Tribe in complying with the regulation are provided by the Federal Government, or the agency consults with Tribal officials.

Although Indian Tribal governments are potentially eligible applicants under HMA programs, FEMA has determined that this rule 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. There is no substantial direct compliance cost associated with this rule. The HMA programs are voluntary programs that provide funding to applicants, including Tribal governments, for eligible mitigation planning and projects that reduce disaster losses and protect life and property from future disaster damages. An Indian Tribal government may participate as either an applicant/recipient or a subapplicant/subrecipient. FEMA does not expect the regulatory changes in this rule to disproportionately affect Indian Tribal governments acting as recipients.

J. Executive Order 13132, Federalism

Executive Order 13132, Federalism, 64 FR 43255, August 10, 1999, sets forth principles and criteria that agencies must adhere to in formulating and implementing policies that have federalism implications, that is, regulations that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Federal agencies must closely examine the

statutory authority supporting any action that would limit the policymaking discretion of the States, and to the extent practicable, must consult with State and local officials before implementing any such action.

FEMA has reviewed this rule under Executive Order 13132 and has determined that this rule does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications as defined by the Executive Order. FEMA has determined that this rule does not significantly affect the rights, roles, and responsibilities of States, and involves no preemption of State law nor does it limit State policymaking discretion. This rulemaking amends regulations governing voluntary grant programs that may be used by State, local and Tribal governments to fund eligible mitigation activities that reduce disaster losses and protect life and property from future disaster damages. States are not required to seek grant funding, and this rulemaking does not limit their policymaking discretion.

K. Executive Order 11988, Floodplain Management

Pursuant to Executive Order 11988, each Federal agency is required to provide leadership and take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains in carrying out its responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. In carrying out these responsibilities, each agency must evaluate the potential effects of any actions it may take in a floodplain; to ensure that its planning programs and budget requests reflect consideration of flood hazards and floodplain management; and to prescribe procedures to implement the policies and requirements of the Executive Order.

Before promulgating any regulation, an agency must determine whether the regulation will affect a floodplain(s), and if so, the agency must consider alternatives to avoid adverse effects and incompatible development in the floodplain(s). If the head of the agency finds that the only practicable alternative consistent with the law and with the policy set forth in Executive Order 11988 is to promulgate a regulation that affects a floodplain(s), the agency must, prior to promulgating the regulation, design or modify the regulation in order to minimize potential harm to or within the floodplain, consistent with the agency's floodplain management regulations and prepare and circulate a notice containing an explanation of why the action is located in the floodplain. The purpose of the rule is to update FEMA's HMA program regulations to reflect statutory changes that have already been implemented. While the rule revises the regulations for FMA administered by the NFIP, it would not impact other NFIA regulations that pertain to land use, floodplain management, or flood insurance. The majority of the revisions in this rulemaking apply to the regulations for the FMA program, which is a voluntary grant program that provides funding for activities designed to reduce the risk of flood damage to structures insured under the NFIP. When FEMA undertakes specific actions that may have effects on floodplain management, FEMA follows the procedures set forth in 44 CFR part 9 to assure compliance with this Executive Order. These procedures include a specific, 8-step process for conducting floodplain management and wetland reviews. The rule does not change this process.

L. Executive Order 11990, Protection of Wetlands

Pursuant to Executive Order 11990, each Federal agency must provide leadership and take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands in carrying out the agency's responsibilities for (1) acquiring, managing, and disposing of Federal lands and facilities; and (2) providing Federally undertaken, financed, or assisted construction and improvements; and (3) conducting Federal activities and programs affecting land use, including but not limited to water and related land resources planning, regulating, and licensing activities. Each agency, to the extent permitted by law, must avoid undertaking or providing assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to such construction, and (2) that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use. In making this finding the head of the agency may take into account economic, environmental and other pertinent factors.

In carrying out the activities described in the Executive Order, each agency must consider factors relevant to a proposal's effect on the survival and quality of the wetlands. Among these factors are: Public health, safety, and welfare, including water supply, quality, recharge and discharge; pollution; flood and storm hazards; and sediment and erosion; maintenance of natural systems, including conservation and long-term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, wildlife, timber, and food and fiber resources; and other uses of wetlands in the public interest, including recreational, scientific, and cultural uses.

The requirements of Executive Order 11990 apply in the context of the provision of Federal financial assistance relating to, among other things, construction and property improvement activities. However, this rule would not have an effect on land use or wetlands. The purpose of the rule is to update FEMA's HMA program regulations to reflect statutory changes that have already been implemented. While the rule revises the regulations for FMA administered by the NFIP, it does not impact other NFIP regulations that pertain to land use, floodplain management, or flood insurance. The majority of the revisions in this rulemaking apply to the regulations for the FMA program, which is a voluntary grant program that provides funding for activities designed to reduce the risk of flood damage to structures insured under the NFIP. When FEMA undertakes specific actions that may have effects on wetlands, FEMA follows the procedures set forth in 44 CFR part 9 to assure compliance with this Executive Order. These procedures include a specific, 8-step process for conducting floodplain management and wetland reviews. The rule would not change this process.

M. Executive Order 12898, Environmental Justice

Pursuant to Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994, as amended by Executive Order 12948, 60 FR 6381, February 1, 1995, FEMA incorporates environmental justice into its policies and programs.

The Executive Order requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in programs, denying persons the benefits of programs, or subjecting persons to discrimination because of race, color, or national origin. This rulemaking will not have a disproportionately high or adverse effect on human health or the environment.

N. Congressional Review of Agency Rulemaking

Under the Congressional Review of Agency Rulemaking Act (CRA), 5 U.S.C. 801–808, before a rule can take effect, the Federal agency promulgating the rule must submit to Congress and to the Government Accountability Office (GAO) a copy of the rule, a concise general statement relating to the rule, including whether it is a major rule, the proposed effective date of the rule, a copy of any cost-benefit analysis, descriptions of the agency's actions under the Regulatory Flexibility Act and the Unfunded Mandates Reform Act, and any other information or statements required by relevant executive orders.

FEMA has sent this rule to the Congress and to GAO pursuant to the CRA. The rule is not a major rule within the meaning of the CRA. It will not have an annual effect on the economy of $100,000,000 or more, it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

List of Subjects

44 CFR Part 77

Flood insurance, Grant programs.

44 CFR Parts 78 and 79

Flood insurance, Grant programs.

44 CFR Part 80

Disaster assistance, Grant programs.

44 CFR Part 201

Administrative practice and procedure, Disaster assistance, Grant programs, Reporting and recordkeeping requirements.

44 CFR Part 206

Administrative practice and procedure, Coastal zone, Community facilities, Disaster assistance, Fire prevention, Grant programs-housing and community development, Housing, Insurance, Intergovernmental relations, Loan programs-housing and community development, Natural resources, Penalties, and Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, FEMA amends 44 CFR parts 77, 78, 79, 80, 201, and 206 as follows:

PART 78—[REMOVED AND RESERVED]

■ 2. Under the authority of 6 U.S.C. 101 *et seq.;* 42 U.S.C. 4001 *et seq.;* 42 U.S.C. 4104c, 4104d, remove and reserve part 78.

PART 79—[REDESIGNATED]

■ 2. Redesignate part 79 as part 77:

■ 3. Revise newly redesignated part 77 to read as follows:

PART 77—FLOOD MITIGATION GRANTS

Sec.

77.1 Purpose and applicability.
77.2 Definitions.
77.3 Responsibilities.
77.4 Availability of funding.
77.5 Application process.
77.6 Eligibility.
77.7 Allowable costs.
77.8 Grant administration.

Authority: 6 U.S.C. 101 *et seq.;* 42 U.S.C. 4001 *et seq.;* 42 U.S.C. 4104c, 4104d.

§ 77.1 Purpose and applicability.

(a) The purpose of this part is to prescribe actions, procedures, and requirements for administration of the Flood Mitigation Assistance (FMA) grant program made available under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 *et seq.* The purpose of the FMA program is to assist States, Indian Tribal governments, and communities for planning and carrying out mitigation activities designed to reduce the risk of flood damage to structures insured under the National Flood Insurance Program (NFIP).

(b) This part applies to the administration of funds under the FMA program for which the application period opens on or after October 12, 2021.

§ 77.2 Definitions.

(a) Except as otherwise provided in this part, the definitions set forth in § 59.1 of this subchapter are applicable to this part.

(b) *Applicant* means the entity, such as a State or Indian Tribal government, applying to FEMA for a Federal award under the FMA program. Once funds have been awarded, the applicant becomes the recipient and may also be a pass-through entity.

(c) *Closeout* means the process by which FEMA or the pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and takes actions as described in 2 CFR 200.344, ''Closeout.''

(d) *Community* means:

(1) A political subdivision, including any Indian Tribe, authorized Tribal organization, Alaska Native village or authorized native organization, that has zoning and building code jurisdiction over a particular area having special flood hazards, and is participating in the NFIP; or

(2) A political subdivision of a State or other authority that is designated by political subdivisions, all of which meet the requirements of paragraph (d)(1) of this section, to administer grants for mitigation activities for such political subdivisions.

(e) *Federal award* means the Federal financial assistance a recipient or subrecipient receives directly from FEMA or indirectly from a pass-through entity. The terms ''award'' and ''grant'' may also be used to describe a Federal award under this part.

(f) *Indian Tribal government* means any Federally recognized governing body of an Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5131. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

(g) *Pass-through entity* means a recipient that provides a subaward to a subrecipient to carry out part of the FMA program.

(h) *Recipient* means the State or Indian Tribal government that receives a Federal award directly from FEMA. A recipient may also be a pass-through entity. The term recipient does not include subrecipients.

(i) *Repetitive loss structure* means a structure covered under an NFIP flood insurance policy that:

(1) Has incurred flood-related damage on 2 occasions, in which the cost of repair, on average, equaled or exceeded 25% of the value of the structure at the time of each such flood event; and

(2) At the time of the second incidence of flood related damage, the contract for flood insurance contains increased cost of compliance coverage.

(j) *Severe repetitive loss structure* means a structure that is covered under an NFIP flood insurance policy and has incurred flood-related damage:

(1) For which 4 or more separate claims payments have been made under flood insurance coverage under subchapter B of this chapter, with the amount of each claim (including building and contents payments) exceeding $5,000, and with the cumulative amount of such claims payments exceeding $20,000; or

(2) For which at least 2 separate flood insurance claims payments (building payments only) have been made, with cumulative amount of such claims exceeding the value of the insured structure.

(k) *State* means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(l) *Subaward* means an award provided by a pass-through entity to a subrecipient, for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

(m) *Subapplicant* means a State agency, community, or Indian Tribal government submitting a subapplication to the applicant for assistance under the FMA program. Upon grant award, the subapplicant is referred to as the subrecipient.

(n) *Subrecipient* means the State agency, community, or Indian Tribal government that receives a subaward from a pass-through entity for the subrecipient to carry out an activity under the FMA program.

(o) *Administrator* means the head of the Federal Emergency Management Agency, or his/her designated representative.

(p) *Regional Administrator* means the head of a Federal Emergency Management Agency regional office, or his/her designated representative.

§ 77.3 Responsibilities.

(a) *Federal Emergency Management Agency (FEMA).* Administer and provide oversight to all FEMA-related hazard mitigation programs and grants, including:

(1) Issue program implementation procedures, as necessary, which will include information on availability of funding;

(2) Award all grants to the recipient after evaluating subaward applications for eligibility and ensuring compliance with applicable Federal laws, giving priority to such properties, or to the subset of such properties, as the Administrator may determine are in the best interest of the NFIF;

(3) Provide technical assistance and training to State, local and Indian Tribal governments regarding the mitigation and grants management process;

(4) Review and approve State, Indian Tribal, and local mitigation plans in accordance with part 201 of this chapter;

(5) Comply with applicable Federal statutory, regulatory, and Executive Order requirements related to environmental and historic preservation compliance, including reviewing and supplementing, if necessary, the environmental analyses conducted by the State and subrecipient in accordance with applicable laws, regulations, and agency policy;

(6) Monitor implementation of awards through quarterly reports; and

(7) Review all closeout documentation for compliance and sending the recipient a request for additional supporting documentation, if needed.

(b) *Recipient.* The recipient must have working knowledge of NFIP goals, requirements, and processes and ensure that the program is coordinated with other mitigation activities. Recipients will:

(1) Have a FEMA approved Mitigation Plan in accordance with part 201 of this chapter;

(2) Provide technical assistance and training to communities on mitigation planning, mitigation project activities, developing subaward applications, and implementing approved subawards;

(3) Prioritize and recommend subaward applications to be approved by FEMA, based on the applicable mitigation plan(s), other evaluation criteria, and the eligibility criteria described in § 77.6;

(4) Award FEMA-approved subawards;

(5) Monitor and evaluate the progress of the mitigation activity in accordance with the approved original scope of work and budget through quarterly reports;

(6) Closeout the subaward in accordance with 2 CFR 200.344 and 200.345, and applicable FEMA guidance; and

(7) Comply with program requirements under this part, grant management requirements identified under 2 CFR parts 200 and 3002, the grant agreement articles, and other applicable Federal, State, Tribal and local laws and regulations.

(c) *Subrecipient.* The subrecipient (or subapplicant, as applicable) will:

(1) Complete and submit subaward applications to the recipient for FMA planning and project subawards;

(2) Implement all approved subawards;

(3) Monitor and evaluate the progress of the mitigation activity in accordance with the approved original scope of work and budget through quarterly reports;

(4) Comply with program requirements under this part, grant management requirements identified under 2 CFR parts 200 and 3002, the grant agreement articles, and other applicable Federal, State, Tribal and local laws and regulations; and

(5) Closeout the subaward in accordance with 2 CFR 200.344 and 200.345, and applicable FEMA guidance.

§ 77.4 Availability of funding.

(a) *Allocation.* (1) For the amount made available for the FMA program, the Administrator will allocate the available funds based upon criteria established for each application period. The criteria may include the number of NFIP policies, severe repetitive loss structures, repetitive loss structures, and any other factors the Administrator determines are in the best interests of the NFIF.

(2) The amount of FMA funds used may not exceed $50,000 for any mitigation plan of a State or $25,000 for any mitigation plan of a community.

(b) *Cost share.* All mitigation activities approved under the grant will be subject to the following cost share provisions:

(1) For each severe repetitive loss structure, FEMA may contribute either:

(i) Up to 100 percent of all eligible costs if the activities are technically feasible and cost effective; or

(ii) Up to the amount of the expected savings to the NFIP for acquisition or relocation activities;

(2) For repetitive loss structures, FEMA may contribute up to 90 percent of the eligible costs;

(3) For all other mitigation activities, FEMA may contribute up to 75 percent of all eligible costs.

(4) For projects that contain a combination of severe repetitive loss, repetitive loss, and/or other insured structures, the cost share will be calculated as appropriate for each type of structure submitted in the project subapplication.

(c) *Failure to make award within 5 years.* Any FMA application or subapplication that does not receive a Federal award within 5 years of the application/subapplication submission date is considered to be denied, and any funding amounts allocated for such applications/subapplications will be made available for other FMA awards and subawards.

§ 77.5 Application process.

(a) *Applicant.* (1) Applicants will be notified of the availability of funding for the FMA program pursuant to 2 CFR 200.203 and 200.204.

(2) The applicant is responsible for soliciting applications from eligible communities, or subapplicants, and for reviewing and prioritizing applications prior to forwarding them to FEMA for review and award.

(b) *Subapplicant.* Communities or other subapplicants who choose to apply must develop subapplications within the timeframes and requirements established by FEMA and must submit subapplications to the applicant.

§ 77.6 Eligibility.

(a) *NFIP requirements.* (1) States, Indian Tribal governments, and communities must be participating in the NFIP and may not be suspended or withdrawn under the program.

(2) For projects that impact individual structures, for example, acquisitions and elevations, an NFIP policy for the structure must be in effect prior to the opening of the application period and be maintained for the life of the structure.

(b) *Plan requirement*—(1) *Applicants.* States must have a FEMA-approved mitigation plan meeting the requirements of § 201.4 of this chapter that provides for reduction of flood losses to structures for which NFIP coverage is available. Indian Tribal governments must have a FEMA-approved mitigation plan meeting the requirements of § 201.7 of this chapter that provides for reduction of flood losses to structures for which NFIP coverage is available. The FEMA-approved mitigation plan is required at the time of application and award.

(2) *Subapplicants.* To be eligible for FMA project grants, subapplicants must have an approved mitigation plan in accordance with part 201 of this chapter that provides for reduction of flood losses to structures for which NFIP coverage is available. The FEMA-approved mitigation plan is required at the time of application and award.

(c) *Eligible activities*—(1) *Planning.* FMA planning grants may be used to develop or update State, Indian Tribal and/or local mitigation plans that meet the planning criteria outlined in part 201 of this chapter and provide for reduction of flood losses to structures for which NFIP coverage is available.

(2) *Projects.* Projects funded under the FMA program are limited to activities that reduce flood damages to properties insured under the NFIP. Applications involving any activities for which implementation has already been initiated or completed are not eligible for funding, and will not be considered. Eligible activities are:

(i) Acquisition of real property from property owners, and demolition or relocation of buildings and/or structures to areas outside of the floodplain to convert the property to open space use in perpetuity, in accordance with part 80 of this subchapter;

(ii) Elevation of existing structures to at least base flood levels or higher, if required by FEMA or if required by any State or local ordinance, and in accordance with criteria established by the Administrator;

(iii) Floodproofing of existing non-residential structures in accordance with the requirements of the NFIP or higher standards if required by FEMA or if required by any State or local ordinance, and in accordance with criteria established by the Administrator;

(iv) Floodproofing of historic structures as defined in § 59.1 of this subchapter;

(v) Demolition and rebuilding of properties to at least base flood levels or higher, if required by FEMA or if required by any State or local ordinance, and in accordance with criteria established by the Administrator;

(vi) Localized flood risk reduction projects that lessen the frequency or severity of flooding and decrease predicted flood damages, and that do not duplicate the flood prevention activities of other Federal agencies. Non-localized flood risk reduction projects such as dikes, levees, floodwalls, seawalls, groins, jetties, dams and large-scale waterway channelization projects are not eligible unless the Administrator specifically determines in approving a mitigation plan that such activities are the most cost-effective mitigation activities for the National Flood Mitigation Fund;

(vii) Elevation, relocation, or floodproofing of utilities; and

(viii) Other mitigation activities not described or identified in (c)(2)(i) through (vii) of this section that are described in the State, Tribal or local mitigation plan.

(3) *Technical assistance.* If a recipient applied for and was awarded at least $1 million in the prior fiscal year, that recipient may be eligible to receive a technical assistance grant for up to $50,000.

(4) *Project Scoping.* Activities that enable subapplicants to develop complete subapplications for eligible mitigation activities including but not limited to data development.

(d) *Minimum project criteria.* In addition to being an eligible project type, mitigation grant projects must also:

(1) Be in conformance with State, Tribal and/or local mitigation plans approved under part 201 of this chapter for the jurisdiction where the project is located;

(2) Be in conformance with applicable environmental and historic preservation laws, regulations, and agency policy, including parts 9 and 60 of this chapter, and other applicable Federal, State, Tribal, and local laws and regulations;

(3) Be technically feasible and cost-effective; or, eliminate future payments from the NFIF for severe repetitive loss structures through an acquisition or relocation activity;

(4) Solve a problem independently, or constitute a functional portion of a long-term solution where there is assurance that the project as a whole will be completed. This assurance will include documentation identifying the remaining funds necessary to complete the project, and the timeframe for completing the project;

(5) Consider long-term changes to the areas and entities it protects, and have manageable future maintenance and modification requirements. The subrecipient is responsible for the continued maintenance needed to preserve the hazard mitigation benefits of these measures; and

(6) Not duplicate benefits available from another source for the same purpose or assistance that another Federal agency or program has more primary authority to provide.

§ 77.7 Allowable costs.

(a) *General.* General policies for allowable costs for implementing awards and subawards are addressed in 2 CFR 200.101, 200.102, 200.400–200.476.

(1) *Eligible management costs*—(i) *Recipient.* Recipients are eligible to receive management costs (direct and indirect administrative costs pursuant to 2 CFR part 200 Subpart E) consisting of a maximum of 10 percent of the planning and project activities awarded to the recipient, each fiscal year under FMA. These costs must be included in the application to FEMA.

(ii) *Subrecipient.* Subapplicants may include a maximum of 5 percent of the total funds requested for their subapplication for management costs to support the implementation of their planning or project activity. These costs must be included in the subapplication to the recipient.

(2) *Indirect costs.* Indirect costs of administering the FMA program are eligible as part of the 10 percent management costs for the recipient or the 5 percent management costs of the subrecipient, but in no case do they make the recipient eligible for additional management costs that exceed the caps identified in paragraph (a)(1) of this section. In addition, all costs must be in accordance with the provisions of 2 CFR parts 200 and 3002.

(b) *Pre-award costs.* FEMA may fund eligible pre-award costs related to developing the application or subapplication at its discretion and as funds are available. Recipients and subrecipients may be reimbursed for eligible pre-award costs for activities directly related to the development of the project or planning proposal. Costs associated with implementation of the activity but incurred prior to award are not eligible. Therefore, activities where implementation is initiated or completed prior to award are not eligible and will not be reimbursed.

(c) *Duplication of benefits.* Grant funds may not duplicate benefits received by or available to applicants, subapplicants and project participants from insurance, other assistance programs, legal awards, or any other source to address the same purpose. Such individual or entity must notify the recipient and FEMA of all benefits that it receives or anticipates from other sources for the same purpose. FEMA will reduce the subaward by the amounts available for the same purpose from another source.

(d) *Negligence or other tortious conduct.* FEMA grant funds are not available where an applicant, subapplicant, other project participant, or third party's negligence or intentional actions contributed to the conditions to be mitigated. If the applicant, subapplicant, or project participant suspects negligence or other tortious conduct by a third party for causing such condition, they are responsible for taking all reasonable steps to recover all costs attributable to the tortious conduct of the third party. FEMA generally considers such amounts to be duplicated benefits available for the same purpose, and will treat them consistent with paragraph (c) of this section.

(e) *Legal obligations.* FEMA grant funds are not available to satisfy or reimburse for legal obligations, such as those imposed by a legal settlement, court order, or State law.

§ 77.8 Grant administration.

(a) *General.* Recipients must comply with the requirements contained in 2 CFR parts 200 and 3002 and FEMA award requirements, including submission of performance and financial status reports. Recipients must also ensure that subrecipients are aware of and comply with 2 CFR parts 200 and 3002.

(b) *Cost overruns.* (1) During the implementation of an approved grant, the recipient may find that actual costs are exceeding the approved award amount. While there is no guarantee of additional funding, FEMA will only consider requests made by the recipient to pay for such overruns if:

(i) Funds are available to meet the requested increase in funding; and

(ii) The amended grant award meets the eligibility requirements, including cost share requirements, identified in this section.

(2) Recipients may use cost underruns from ongoing subawards to offset overruns incurred by another subaward(s) awarded under the same award. All costs for which funding is requested must have been included in the original subapplication's cost estimate. In cases where an underrun is not available to cover an overrun, the Administrator may, with justification from the recipient and subrecipient, use other available FMA funds to cover the cost overrun.

(3) For all cost overruns that exceed the amount approved under the award, and which require additional Federal funds, the recipient must submit a written request with a recommendation, including a justification for the additional funding to the Regional Administrator for a determination. If approved, the Regional Administrator will increase the award through an amendment to the original award document.

(c) *Recapture.* At the time of closeout, FEMA will recapture any funds provided to a State or a community under this part if the applicant has not provided the appropriate matching funds, the approved project has not been completed within the timeframes specified in the grant agreement, or the completed project does not meet the criteria specified in this part.

(d) *Remedies for noncompliance.* FEMA may terminate an award or take other remedies for noncompliance in accordance with 2 CFR 200.339 through 200.343.

(e) *Reconsideration.* FEMA will reconsider determinations of noncompliance, additional award conditions, or its decision to terminate a Federal award. Requests for reconsideration must be made in writing to FEMA within 60 calendar days after receipt of a notice of the action, and in accordance with submission procedures set out in guidance. FEMA will notify the requester of the disposition of the request for reconsideration. If the decision is to grant the request for reconsideration, FEMA will take appropriate implementing action.

PART 79—[RESERVED]

■ 4. Add and reserve part 79.

PART 80—PROPERTY ACQUISITION AND RELOCATION FOR OPEN SPACE

■ 5. Revise the authority citation for part 80 to read as follows:

Authority: Robert T. Stafford disaster relief and emergency assistance act, 42 U.S.C. 5121 through 5207; the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4001 *et seq.;* Homeland Security Act of 2002, 6 U.S.C. 101.

■ 6. Revise § 80.3 to read as follows:

§ 80.3 Definitions.

(a) Except as noted in this part, the definitions applicable to the funding program apply to implementation of this part. In addition, for purposes of this part:

(b) *Applicant* means a State or Indian Tribal government applying to FEMA for a Federal award that will be accountable for the use of funds. Once funds have been awarded, the applicant becomes the recipient and may also be a pass-through entity.

(c) *Federal award* means the Federal financial assistance that a recipient or subrecipient receives directly from FEMA or indirectly from a pass-through entity. The terms ''award'' and ''grant'' may also be used to describe a ''Federal award'' under this part.

(d) *Market Value* means the price that the seller is willing to accept and a buyer is willing to pay on the open market and in an arm's length transaction.

(e) *National of the United States* means a person within the meaning of the term as defined in the Immigration and Nationality Act, 8 U.S.C. 1101(a)(22).

(f) *Pass-through entity* means a recipient that provides a subaward to a subrecipient.

(g) *Purchase offer* is the initial value assigned to the property, which is later

adjusted by applicable additions and deductions, resulting in a final offer amount to a property owner.

(h) *Qualified alien* means a person within the meaning of the term as defined at 8 U.S.C. 1641.

(i) *Qualified conservation organization* means a qualified organization with a conservation purpose pursuant to 26 CFR 1.170A–14 and applicable implementing regulations, that is such an organization at the time it acquires the property interest and that was such an organization at the time of the major disaster declaration, or for at least 2 years prior to the opening of the grant application period.

(j) *Recipient* means the State or Tribal government that receives a Federal award directly from FEMA. A recipient may also be a pass-through entity. The term recipient does not include subrecipients.

(k) *Subapplicant* means the entity that submits an application for FEMA mitigation assistance to the State or Indian Tribal applicant/recipient. With respect to open space acquisition projects under the Hazard Mitigation Grant Program (HMGP), this term has the same meaning as given to the term ''applicant'' in part 206, subpart N of this chapter. Upon grant award, the subapplicant is referred to as the subrecipient.

(l) *Subaward* means an award provided by a pass-through entity to a subrecipient, for the subrecipient to carry out part of a Federal award received by the pass-through entity.

(m) *Subrecipient* means the State agency, community or Indian Tribal government or other legal entity to which a subaward is awarded and which is accountable to the recipient for the use of the funds provided.

(n) *Administrator* means the head of the Federal Emergency Management Agency, or his/her designated representative.

(o) *Regional Administrator* means the head of a Federal Emergency Management Agency regional office, or his/her designated representative.

§ 80.5 [Amended]

■ 7. Amend § 80.5 by:

■ a. Removing the word ''grantee'' wherever it appears and adding in its place the word ''recipient''; and

■ b. Removing the word ''subgrantee'' wherever it appears and adding in its place the word ''subrecipient''.

■ 8. Amend § 80.9 by revising paragraphs (b) and (c) to read as follows:

§ 80.9 Eligible and ineligible costs.

* * * * *

(b) *Pre-award costs.* FEMA may fund eligible pre-award project costs at its discretion and as funds are available. Recipients and subrecipients may be reimbursed for eligible pre-award costs for activities directly related to the development of the project proposal. These costs can only be incurred during the open application period of the respective grant program. Costs associated with implementation of the project but incurred prior to grant award are not eligible. Therefore, activities where implementation is initiated or completed prior to award are not eligible and will not be reimbursed.

(c) *Duplication of benefits.* Grant funds may not duplicate benefits received by or available to applicants, subapplicants and other project participants from insurance, other assistance programs, legal awards, or any other source to address the same purpose. Such individual or entity must notify the subapplicant and FEMA of all benefits that it receives, anticipates, or has available from other sources for the same purpose. FEMA will reduce the subaward by the amounts available for the same purpose from another source.

* * * * *

■ 9. Amend § 80.11 by revising paragraph (a) to read as follows:

§ 80.11 Project eligibility.

(a) *Voluntary participation.* Eligible acquisition projects are those where the property owner participates voluntarily, and the recipient/subrecipient will not use its eminent domain authority to acquire the property for the open space purposes should negotiations fail.

* * * * *

■ 10. Amend § 80.13 by revising paragraph (a)(3) to read as follows:

§ 80.13 Application information.

(a) * * *

(3) The deed restriction language, which must be consistent with the FEMA model deed restriction that the local government will record with the property deeds. Any variation from the model deed restriction language can only be made with prior approval from FEMA's Office of Chief Counsel;

* * * * *

■ 11. Revise § 80.17 to read as follows:

§ 80.17 Project implementation.

(a) *Hazardous materials.* The subrecipient must take steps to ensure it does not acquire or include in the project properties contaminated with hazardous materials by seeking information from property owners and from other sources on the use and presence of contaminants affecting the property from owners of properties that are or were industrial or commercial, or adjacent to such. A contaminated property must be certified clean prior to participation. This excludes permitted disposal of incidental demolition and household hazardous wastes. FEMA mitigation grant funds may not be used for clean up or remediation of contaminated properties.

(b) *Clear title.* The subrecipient will obtain a title insurance policy demonstrating that fee title conveys to the subrecipient for each property to ensure that it acquires only a property with clear title. The property interest generally must transfer by a general warranty deed. Any incompatible easements or other encumbrances to the property must be extinguished before acquisition.

(c) *Purchase offer and supplemental payments.* (1) The amount of purchase offer is the current market value of the property or the market value of the property immediately before the relevant event affecting the property (''pre-event'').

(i) The relevant event for Robert T. Stafford Disaster Relief and Emergency Assistance Act assistance under HMGP is the major disaster under which funds are available; for assistance under the Pre-disaster Mitigation program (PDM) (42 U.S.C. 5133), it is the most recent major disaster. Where multiple disasters have affected the same property, the recipient and subrecipient will determine which is the relevant event.

(ii) The relevant event for assistance under the National Flood Insurance Act is the most recent event resulting in a National Flood Insurance Program (NFIP) claim of at least $5,000.

(2) The recipient should coordinate with the subrecipient in their determination of whether the valuation should be based on pre-event or current market value. Generally, the same method to determine market value should be used for all participants in the project.

(3) A property owner who did not own the property at the time of the relevant event, or who is not a National of the United States or qualified alien, is not eligible for a purchase offer based on pre-event market value of the property. Subrecipients who offer pre-event market value to the property owner must have already obtained certification during the application process that the property owner is either a National of the United States or a qualified alien.

(4) Certain tenants who must relocate as a result of the project are entitled to relocation benefits under the Uniform Relocation Assistance and Real Property

Acquisition Act (such as moving expenses, replacement housing rental payments, and relocation assistance advisory services) in accordance with 49 CFR part 24.

(5) If a purchase offer for a residential property is less than the cost of the homeowner-occupant to purchase a comparable replacement dwelling outside the hazard-prone area in the same community, subrecipients for mitigation grant programs may make such a payment available in accordance with criteria determined by the Administrator.

(6) The subrecipient must inform each property owner, in writing, of what it considers to be the market value of the property, the method of valuation and basis for the purchase offer, and the final offer amount. The offer will also clearly state that the property owner's participation in the project is voluntary.

(d) *Removal of existing buildings.* Existing incompatible facilities must be removed by demolition or by relocation outside of the hazard area within 90 days of settlement of the property transaction. The FEMA Regional Administrator may grant an exception to this deadline only for a particular property based upon written justification if extenuating circumstances exist, but will specify a final date for removal.

(e) *Deed Restriction.* The subrecipient, upon settlement of the property transaction, must record with the deed of the subject property notice of applicable land use restrictions and related procedures described in this part, consistent with FEMA model deed restriction language.

■ 12. Amend § 80.19 by revising paragraphs (a) introductory text, (a)(3), and (b) through (e) to read as follows:

§ 80.19 Land use and oversight.

* * * * *

(a) *Open space requirements.* The property must be dedicated and maintained in perpetuity as open space for the conservation of natural floodplain functions.

* * * * *

(3) Any improvements on the property must be in accordance with proper floodplain management policies and practices. Structures built on the property according to paragraph (a)(2) of this section must be floodproofed or elevated to at least the base flood level plus 1 foot of freeboard, or greater, if required by FEMA, or if required by any State or local ordinance, and in accordance with criteria established by the Administrator.

* * * * *

(b) *Subsequent transfer.* After acquiring the property interest, the subrecipient, including successors in interest, will convey any interest in the property only if the Regional Administrator, through the State, gives prior written approval of the transferee in accordance with this paragraph.

(1) The request by the subrecipient, through the State, to the Regional Administrator must include a signed statement from the proposed transferee that it acknowledges and agrees to be bound by the terms of this section, and documentation of its status as a qualified conservation organization if applicable.

(2) The subrecipient may convey a property interest only to a public entity or to a qualified conservation organization. However, the subrecipient may convey an easement or lease to a private individual or entity for purposes compatible with the uses described in paragraph (a) of this section, with the prior approval of the Regional Administrator, and so long as the conveyance does not include authority to control and enforce the terms and conditions of this section.

(3) If title to the property is transferred to a public entity other than one with a conservation mission, it must be conveyed subject to a conservation easement that must be recorded with the deed and must incorporate all terms and conditions set forth in this section, including the easement holder's responsibility to enforce the easement. This must be accomplished by one of the following means:

(i) The subrecipient will convey, in accordance with this paragraph (b), a conservation easement to an entity other than the title holder, which must be recorded with the deed, or

(ii) At the time of title transfer, the subrecipient will retain such conservation easement, and record it with the deed.

(4) Conveyance of any property interest must reference and incorporate the original deed restrictions providing notice of the conditions in this section and must incorporate a provision for the property interest to revert to the subrecipient or recipient in the event that the transferee ceases to exist or loses its eligible status under this section.

(c) *Inspection.* FEMA, its representatives and assigns, including the recipient will have the right to enter upon the property, at reasonable times and with reasonable notice, for the purpose of inspecting the property to ensure compliance with the terms of this part, the property conveyance and of the grant award.

(d) *Monitoring and reporting.* Every 3 years the subrecipient (in coordination with any current successor in interest) through the recipient, must submit to the FEMA Regional Administrator a report certifying that the subrecipient has inspected the property within the month preceding the report, and that the property continues to be maintained consistent with the provisions of this part, the property conveyance and the grant award.

(e) *Enforcement.* The subrecipient, recipient, FEMA, and their respective representatives, successors and assigns, are responsible for taking measures to bring the property back into compliance if the property is not maintained according to the terms of this part, the conveyance, and the grant award. The relative rights and responsibilities of FEMA, the recipient, the subrecipient, and subsequent holders of the property interest at the time of enforcement, include the following:

(1) The recipient will notify the subrecipient and any current holder of the property interest in writing and advise them that they have 60 days to correct the violation. If the subrecipient or any current holder of the property interest fails to demonstrate a good faith effort to come into compliance with the terms of the grant within the 60-day period, the recipient will enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to bringing an action at law or in equity in a court of competent jurisdiction.

(2) FEMA, its representatives, and assignees may enforce the terms of the grant by taking any measures it deems appropriate, including but not limited to 1 or more of the following:

(i) Withholding FEMA mitigation awards or assistance from the State and subrecipient; and current holder of the property interest.

(ii) Requiring transfer of title. The subrecipient or the current holder of the property interest will bear the costs of bringing the property back into compliance with the terms of the grant; or

(iii) Bringing an action at law or in equity in a court of competent jurisdiction against any or all of the following parties: The recipient, the subrecipient, and their respective successors.

■ 13. Amend § 80.21 by revising the introductory text and paragraph (d) to read as follows:

§ 80.21 Closeout requirements.

Upon closeout of the grant, the subrecipient, through the recipient, must provide FEMA, with the following:

* * * * *

(d) Identification of each property as a repetitive loss structure, if applicable; and

* * * * *

PART 201—MITIGATION PLANNING

■ 14. Revise the authority citation for part 201 to read as follows:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 through 5207; Homeland Security Act of 2002, 6 U.S.C. 101; National Flood Insurance Act of 1968, 42 U.S.C. 4104c.

■ 15. Amend § 201.1 by revising paragraph (a) to read as follows:

§ 201.1 Purpose.

(a) The purpose of this part is to provide information on the policies and procedures for mitigation planning as required by the provisions of section 322 of the Stafford Act, 42 U.S.C. 5165, and section 1366 of the National Flood Insurance Act of 1968, 42 U.S.C. 4104c.

* * * * *

■ 16. Revise § 201.2 to read as follows:

§ 201.2 Definitions.

Administrator means the head of the Federal Emergency Management Agency, or his/her designated representative.

Applicant means the entity applying to FEMA for a Federal award that will be accountable for the use of funds.

Federal award means the Federal financial assistance that a recipient or subrecipient receives directly from FEMA or indirectly from a pass-through entity. The term ''grant'' or ''award'' may also be used to describe a Federal award under this part.

Flood Mitigation Assistance (FMA) means the program authorized by section 1366 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4104c, and implemented at part 77.

Hazard mitigation means any sustained action taken to reduce or eliminate the long-term risk to human life and property from hazards.

Hazard Mitigation Grant Program (HMGP) means the program authorized under section 404 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170c, and implemented at part 206, subpart N of this chapter.

Indian Tribal government means any Federally recognized governing body of an Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5131. This does not include Alaska Native corporations, the ownership of which is vested in private individuals.

Local government is any county, municipality, city, town, township, public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government; any Indian Tribe or authorized Tribal organization, or Alaska Native village or organization; and any rural community, unincorporated town or village, or other public entity.

Managing State means a State to which FEMA has delegated the authority to administer and manage the HMGP under the criteria established by FEMA pursuant to 42 U.S.C. 5170c(c). FEMA may also delegate authority to Tribal governments to administer and manage the HMGP as a Managing State.

Pass-through entity means a recipient that provides a subaward to a subrecipient to carry out part of a Federal program.

Pre-Disaster Mitigation Program (PDM) means the program authorized under section 203 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5133.

Regional Administrator means the head of a Federal Emergency Management Agency regional office, or his/her designated representative.

Recipient means the government that receives a Federal award directly from FEMA. A recipient may also be a pass-through entity. The term recipient does not include subrecipients. The recipient is the entire legal entity even if only a particular component of the entity is designated in the grant award document. Generally, the State is the recipient. However, an Indian Tribal government may choose to be a recipient, or may act as a subrecipient under the State. An Indian Tribal government acting as recipient will assume the responsibilities of a ''State'', as described in this part, for the purposes of administering the grant.

Repetitive loss structure means a structure as defined at § 77.2 of this chapter.

Severe repetitive loss structure is a structure as defined at § 77.2 of this chapter.

Small and impoverished communities means a community of 3,000 or fewer individuals that is identified by the State as a rural community, and is not a remote area within the corporate boundaries of a larger city; is economically disadvantaged, by having an average per capita annual income of residents not exceeding 80 percent of national, per capita income, based on best available data; the local unemployment rate exceeds by one percentage point or more, the most recently reported, average yearly national unemployment rate; and any other factors identified in the State Plan in which the community is located.

The Stafford Act refers to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93–288, as amended (42 U.S.C. 5121–5207).

State is any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

State Hazard Mitigation Officer is the official representative of State government who is the primary point of contact with FEMA, other Federal agencies, and local governments in mitigation planning and implementation of mitigation programs and activities required under the Stafford Act.

Subapplicant means an entity submitting a subapplication to the applicant for a subaward to carry out part of a Federal award.

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award.

Subrecipient means the entity that receives a subaward from a pass-through entity. Depending on the program, subrecipients of hazard mitigation assistance subawards can be a State agency, local government, private nonprofit organization, or Indian Tribal government. Subrecipients of FMA subawards can be a State agency, community, or Indian Tribal government, as described in 44 CFR part 77. Indian Tribal governments acting as a subrecipient are accountable to the State recipient.

■ 17. Amend § 201.3 by revising paragraphs (a), (b)(2), (c)(1), and (e)(1) to read as follows:

§ 201.3 Responsibilities.

(a) *General.* This section identifies the key responsibilities of FEMA, States, and local/Tribal governments in carrying out section 322 of the Stafford Act, 42 U.S.C. 5165.

(b) * * *

(2) Provide technical assistance and training to State, local, and Indian Tribal governments regarding the mitigation planning process;

* * * * *

(c) * * *

(1) Prepare and submit to FEMA a Standard State Mitigation Plan following the criteria established in § 201.4 as a condition of receiving non-emergency Stafford Act assistance and FEMA mitigation grants. In accordance with § 77.6(b) of this chapter, applicants and subapplicants for FMA project grants must have a FEMA-approved mitigation plan that addresses identified flood hazards and provides for reduction of flood losses to structures for which NFIP coverage is available.

* * * * *

(e) * * *

(1) Prepare and submit to FEMA a Tribal Mitigation Plan following the criteria established in § 201.7 as a condition of receiving non-emergency Stafford Act assistance and FEMA mitigation grants as a recipient. This plan will also allow Indian Tribal governments to apply through the State, as a subrecipient, for any FEMA mitigation project grant. In accordance with § 77.6(b) of this chapter, applicants and subapplicants for FMA project grants must have a FEMA-approved mitigation plan that addresses identified flood hazards and provides for reduction of flood losses to structures for which NFIP coverage is available.

* * * * *

■ 18. Amend § 201.4 by revising paragraphs (c)(2) through (4) to read as follows:

§ 201.4 Standard State Mitigation Plans.

* * * * *

(c) * * *

(2) Statewide *risk assessments* that provide the factual basis for activities proposed in the strategy portion of the mitigation plan. Statewide risk assessments must characterize and analyze natural hazards and risks to provide a statewide overview. This overview will allow the State to compare potential losses throughout the State and to determine their priorities for implementing mitigation measures under the strategy, and to prioritize jurisdictions for receiving technical and financial support in developing more detailed local risk and vulnerability assessments. The risk assessment must include the following:

(i) An overview of the type and location of all natural hazards that can affect the State, including information on previous occurrences of hazard events, as well as the probability of future hazard events, using maps where appropriate;

(ii) An overview and analysis of the State's vulnerability to the hazards described in this paragraph (c)(2), based on estimates provided in local risk assessments as well as the State risk assessment. The State must describe vulnerability in terms of the jurisdictions most threatened by the identified hazards, and most vulnerable to damage and loss associated with hazard events. State owned or operated critical facilities located in the identified hazard areas must also be addressed;

(iii) An overview and analysis of potential losses to the identified vulnerable structures, based on estimates provided in local risk assessments as well as the State risk assessment. The State must estimate the potential dollar losses to State owned or operated buildings, infrastructure, and critical facilities located in the identified hazard areas.

(3) A *Mitigation Strategy* that provides the State's blueprint for reducing the losses identified in the risk assessment. This section must include:

(i) A description of State goals to guide the selection of activities to mitigate and reduce potential losses.

(ii) A discussion of the State's pre- and post-disaster hazard management policies, programs, and capabilities to mitigate the hazards in the area, including: An evaluation of State laws, regulations, policies, and programs related to hazard mitigation as well as to development in hazard-prone areas; a discussion of State funding capabilities for hazard mitigation projects; and a general description and analysis of the effectiveness of local mitigation policies, programs, and capabilities.

(iii) An identification, evaluation, and prioritization of cost-effective, environmentally sound, and technically feasible mitigation actions and activities the State is considering and an explanation of how each activity contributes to the overall mitigation strategy. This section should be linked to local plans, where specific local actions and projects are identified.

(iv) Identification of current and potential sources of Federal, State, local, or private funding to implement mitigation activities.

(v) In accordance with § 77.6(b) of this chapter, applicants and subapplicants for FMA project grants must have a FEMA-approved mitigation plan that addresses identified flood hazards and provides for reduction of flood losses to structures for which NFIP coverage is available.

(4) A section on the *Coordination of Local Mitigation Planning* that includes the following:

(i) A description of the State process to support, through funding and technical assistance, the development of local mitigation plans.

(ii) A description of the State process and timeframe by which the local plans will be reviewed, coordinated, and linked to the State Mitigation Plan.

(iii) Criteria for prioritizing communities and local jurisdictions that would receive planning and project grants under available funding programs, which should include consideration for communities with the highest risks, repetitive loss structures, and most intense development pressures. Further, that for non-planning grants, a principal criterion for prioritizing grants will be the extent to which benefits are maximized according to a cost benefit review of proposed projects and their associated costs.

* * * * *

■ 19. Amend § 201.6 by revising paragraphs (a) through (c) to read as follows:

§ 201.6 Local Mitigation Plans.

* * * * *

(a) *Plan requirements.* (1) A local government must have a mitigation plan approved pursuant to this section in order to receive HMGP project grants. A local government must have a mitigation plan approved pursuant to this section in order to apply for and receive mitigation project grants under all other mitigation grant programs.

(2) Plans prepared for the FMA program, described at part 77 of this chapter, need only address these requirements as they relate to flood hazards in order to be eligible for FMA project grants. However, these plans must be clearly identified as being flood mitigation plans, and they will not meet the eligibility criteria for other mitigation grant programs, unless flooding is the only natural hazard the jurisdiction faces.

(3) Regional Administrators may grant an exception to the plan requirement in extraordinary circumstances, such as in a small and impoverished community, when justification is provided. In these cases, a plan will be completed within 12 months of the award of the project grant. If a plan is not provided within this timeframe, the project grant will be terminated, and any costs incurred after notice of grant's termination will not be reimbursed by FEMA.

(4) Multi-jurisdictional plans (*e.g.,* watershed plans) may be accepted, as appropriate, as long as each jurisdiction

has participated in the process and has officially adopted the plan. State-wide plans will not be accepted as multi-jurisdictional plans.

(b) *Planning process.* An open public involvement process is essential to the development of an effective plan. In order to develop a more comprehensive approach to reducing the effects of natural disasters, the planning process must include:

(1) An opportunity for the public to comment on the plan during the drafting stage and prior to plan approval;

(2) An opportunity for neighboring communities, local and regional agencies involved in hazard mitigation activities, and agencies that have the authority to regulate development, as well as businesses, academia and other private and nonprofit interests to be involved in the planning process; and

(3) Review and incorporation, if appropriate, of existing plans, studies, reports, and technical information.

(c) *Plan content.* The plan must include the following:

(1) Documentation of the *planning process* used to develop the plan, including how it was prepared, who was involved in the process, and how the public was involved.

(2) A *risk assessment* that provides the factual basis for activities proposed in the strategy to reduce losses from identified hazards. Local risk assessments must provide sufficient information to enable the jurisdiction to identify and prioritize appropriate mitigation actions to reduce losses from identified hazards. The risk assessment must include:

(i) A description of the type, location, and extent of all natural hazards that can affect the jurisdiction. The plan must include information on previous occurrences of hazard events and on the probability of future hazard events.

(ii) A description of the jurisdiction's vulnerability to the hazards described in paragraph (c)(2)(i) of this section. This description must include an overall summary of each hazard and its impact on the community. All plans approved after October 1, 2008 must also address NFIP insured structures that have been repetitively damaged by floods. The plan should describe vulnerability in terms of:

(A) The types and numbers of existing and future buildings, infrastructure, and critical facilities located in the identified hazard areas;

(B) An estimate of the potential dollar losses to vulnerable structures identified in paragraph (c)(2)(ii)(A) of this section and a description of the methodology used to prepare the estimate;

(C) Providing a general description of land uses and development trends within the community so that mitigation options can be considered in future land use decisions.

(iii) For multi-jurisdictional plans, the risk assessment section must assess each jurisdiction's risks where they vary from the risks facing the entire planning area.

(3) A *mitigation strategy* that provides the jurisdiction's blueprint for reducing the potential losses identified in the risk assessment, based on existing authorities, policies, programs and resources, and its ability to expand on and improve these existing tools. This section must include:

(i) A description of mitigation goals to reduce or avoid long-term vulnerabilities to the identified hazards.

(ii) A section that identifies and analyzes a comprehensive range of specific mitigation actions and projects being considered to reduce the effects of each hazard, with particular emphasis on new and existing buildings and infrastructure. All plans approved by FEMA after October 1, 2008, must also address the jurisdiction's participation in the NFIP, and continued compliance with NFIP requirements, as appropriate.

(iii) An action plan describing how the actions identified in paragraph (c)(3)(ii) of this section will be prioritized, implemented, and administered by the local jurisdiction. Prioritization will include a special emphasis on the extent to which benefits are maximized according to a cost benefit review of the proposed projects and their associated costs.

(iv) For multi-jurisdictional plans, there must be identifiable action items specific to the jurisdiction requesting FEMA approval or credit of the plan.

(4) A *plan maintenance process* that includes:

(i) A section describing the method and schedule of monitoring, evaluating, and updating the mitigation plan within a five-year cycle.

(ii) A process by which local governments incorporate the requirements of the mitigation plan into other planning mechanisms such as comprehensive or capital improvement plans, when appropriate.

(iii) Discussion on how the community will continue public participation in the plan maintenance process.

(5) *Documentation* that the plan has been formally adopted by the governing body of the jurisdiction requesting approval of the plan (*e.g.,* City Council, County Commissioner, Tribal Council). For multi-jurisdictional plans, each jurisdiction requesting approval of the plan must document that it has been formally adopted.

* * * * *

■ 20. Amend § 201.7 by revising paragraphs (a), (c), and (d) to read as follows:

§ 201.7 Tribal Mitigation Plans.

* * * * *

(a) *Plan requirement.* (1) Indian Tribal governments applying to FEMA as a recipient must have an approved Tribal Mitigation Plan meeting the requirements of this section as a condition of receiving non-emergency Stafford Act assistance and FEMA mitigation grants. Emergency assistance provided under 42 U.S.C. 5170a, 5170b, 5173, 5174, 5177, 5179, 5180, 5182, 5183, 5184, 5192 will not be affected. Mitigation planning grants provided through the PDM program, authorized under section 203 of the Stafford Act, 42 U.S.C. 5133, will also continue to be available.

(2) Indian Tribal governments applying through the State as a subrecipient must have an approved Tribal Mitigation Plan meeting the requirements of this section in order to receive HMGP project grants. A Tribe must have an approved Tribal Mitigation Plan in order to apply for and receive FEMA mitigation project grants, under all other mitigation grant programs. The provisions in § 201.6(a)(3) are available to Tribes applying as subrecipients.

(3) Multi-jurisdictional plans (*e.g.,* county-wide or watershed plans) may be accepted, as appropriate, as long as the Indian Tribal government has participated in the process and has officially adopted the plan. Indian Tribal governments must address all the elements identified in this section to ensure eligibility as a recipient or as a subrecipient.

* * * * *

(c) *Plan content.* The plan must include the following:

(1) Documentation of the *planning process* used to develop the plan, including how it was prepared, who was involved in the process, and how the public was involved. This must include:

(i) An opportunity for the public to comment on the plan during the drafting stage and prior to plan approval, including a description of how the Indian Tribal government defined ''public;''

(ii) As appropriate, an opportunity for neighboring communities, Tribal and regional agencies involved in hazard mitigation activities, and agencies that have the authority to regulate

development, as well as businesses, academia, and other private and nonprofit interests to be involved in the planning process;

(iii) Review and incorporation, if appropriate, of existing plans, studies, and reports; and

(iv) Be integrated to the extent possible with other ongoing Tribal planning efforts as well as other FEMA programs and initiatives.

(2) A *risk assessment* that provides the factual basis for activities proposed in the strategy to reduce losses from identified hazards. Tribal risk assessments must provide sufficient information to enable the Indian Tribal government to identify and prioritize appropriate mitigation actions to reduce losses from identified hazards. The risk assessment must include:

(i) A description of the type, location, and extent of all natural hazards that can affect the Tribal planning area. The plan must include information on previous occurrences of hazard events and on the probability of future hazard events.

(ii) A description of the Indian Tribal government's vulnerability to the hazards described in paragraph (c)(2)(i) of this section. This description must include an overall summary of each hazard and its impact on the Tribe. The plan should describe vulnerability in terms of:

(A) The types and numbers of existing and future buildings, infrastructure, and critical facilities located in the identified hazard areas;

(B) An estimate of the potential dollar losses to vulnerable structures identified in paragraph (c)(2)(ii)(A) of this section and a description of the methodology used to prepare the estimate;

(C) A general description of land uses and development trends within the Tribal planning area so that mitigation options can be considered in future land use decisions; and

(D) Cultural and sacred sites that are significant, even if they cannot be valued in monetary terms.

(3) A *mitigation strategy* that provides the Indian Tribal government's blueprint for reducing the potential losses identified in the risk assessment, based on existing authorities, policies, programs and resources, and its ability to expand on and improve these existing tools. This section must include:

(i) A description of mitigation goals to reduce or avoid long-term vulnerabilities to the identified hazards.

(ii) A section that identifies and analyzes a comprehensive range of specific mitigation actions and projects being considered to reduce the effects of each hazard, with particular emphasis on new and existing buildings and infrastructure.

(iii) An action plan describing how the actions identified in paragraph (c)(3)(ii) of this section will be prioritized, implemented, and administered by the Indian Tribal government.

(iv) A discussion of the Indian Tribal government's pre- and post-disaster hazard management policies, programs, and capabilities to mitigate the hazards in the area, including: An evaluation of Tribal laws, regulations, policies, and programs related to hazard mitigation as well as to development in hazard-prone areas; and a discussion of Tribal funding capabilities for hazard mitigation projects.

(v) Identification of current and potential sources of Federal, Tribal, or private funding to implement mitigation activities.

(vi) In accordance with § 77.6(b) of this chapter, applicants and subapplicants for FMA project grants must have a FEMA-approved mitigation plan that addresses identified flood hazards and provides for reduction of flood losses to structures for which NFIP coverage is available.

(4) A *plan maintenance process* that includes:

(i) A section describing the method and schedule of monitoring, evaluating, and updating the mitigation plan.

(ii) A system for monitoring implementation of mitigation measures and project closeouts.

(iii) A process by which the Indian Tribal government incorporates the requirements of the mitigation plan into other planning mechanisms such as reservation master plans or capital improvement plans, when appropriate.

(iv) Discussion on how the Indian Tribal government will continue public participation in the plan maintenance process.

(v) A system for reviewing progress on achieving goals as well as activities and projects identified in the mitigation strategy.

(5) The plan must be formally adopted by the governing body of the Indian Tribal government prior to submittal to FEMA for final review and approval.

(6) The plan must include assurances that the Indian Tribal government will comply with all applicable Federal statutes and regulations in effect with respect to the periods for which it receives grant funding, including 2 CFR parts 200 and 3002. The Indian Tribal government will amend its plan whenever necessary to reflect changes in Tribal or Federal laws and statutes.

(d) *Plan review and updates.* (1) Plans must be submitted to the appropriate FEMA Regional Office for formal review and approval. Indian Tribal governments who would like the option of being a subrecipient under the State must also submit their plan to the State Hazard Mitigation Officer for review and coordination.

(2) The Regional review will be completed within 45 days after receipt from the Indian Tribal government, whenever possible.

(3) Indian Tribal governments must review and revise their plan to reflect changes in development, progress in local mitigation efforts, and changes in priorities, and resubmit it for approval within 5 years in order to continue to be eligible for non-emergency Stafford Act assistance and FEMA mitigation grant funding.

PART 206—FEDERAL DISASTER ASSISTANCE

■ 21. The authority citation for part 206 is revised to read as follows:

Authority: Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 through 5207; Homeland Security Act of 2002, 6 U.S.C. 101 *et seq.;* Department of Homeland Security Delegation 9001.1; sec. 1105, Pub. L. 113–2, 127 Stat. 43 (42 U.S.C. 5189a note).

■ 22. Revise § 206.431 to read as follows:

§ 206.431 Definitions.

Activity means any mitigation measure, project, or action proposed to reduce risk of future damage, hardship, loss or suffering from disasters.

Applicant means the non-Federal entity consisting of a State or Indian Tribal government, applying to FEMA for a Federal award under the Hazard Mitigation Grant Program. Upon award, the applicant becomes the recipient and may also be a pass-through entity.

Enhanced State Mitigation Plan is the hazard mitigation plan approved under 44 CFR part 201 as a condition of receiving increased funding under the HMGP.

Grant application means the request to FEMA for HMGP funding, as outlined in § 206.436, by a State or Tribal government that will act as recipient.

Grant award means total of Federal and non-Federal contributions to complete the approved scope of work.

Indian Tribal government means any Federally recognized governing body of an Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of Interior acknowledges to exist as an Indian Tribe under the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 5131. This does not include Alaska Native

corporations, the ownership of which is vested in private individuals. Indian Tribal governments have the option to apply as an applicant or subapplicant.

Local Mitigation Plan is the hazard mitigation plan required of a local government acting as a subrecipient as a condition of receiving a project subaward under the HMGP as outlined in 44 CFR 201.6.

Pass-through entity means a recipient that provides a subaward to a subrecipient.

Recipient means the State or Indian Tribal government that receives a Federal award directly from FEMA. A recipient may also be a pass-through entity. The term recipient does not include subrecipients. The recipient is the entire legal entity even if only a particular component of the entity is designated in the grant award document. Generally, the State is the recipient. However, an Indian Tribal government may choose to be a recipient, or may act as a subrecipient under the State. An Indian Tribal government acting as recipient will assume the responsibilities of a ''State'', as described in this part, for the purposes of administering the grant.

Standard State Mitigation Plan is the hazard mitigation plan approved under 44 CFR part 201, as a condition of receiving Stafford Act assistance as outlined in § 201.4 of this chapter.

State Administrative Plan for the Hazard Mitigation Grant Program means the plan developed by the State to describe the procedures for administration of the HMGP.

Subapplicant means the State agency, local government, eligible private nonprofit organization, or Indian Tribal government submitting a subapplication to the applicant for financial assistance under HMGP. Upon award, the subapplicant becomes the subrecipient.

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award.

Subaward application means the request to the recipient for HMGP funding by the eligible subrecipient, as outlined in § 206.436.

Subrecipient means the government or other legal entity to which a subaward is awarded and which is accountable to the recipient for the use of the funds provided. Subrecipients can be a State agency, local government, private nonprofit organization, or Indian Tribal government as outlined in § 206.433. Indian Tribal governments acting as a subrecipient are accountable to the State recipient.

Tribal Mitigation Plan is the hazard mitigation plan required of an Indian Tribal government acting as a recipient or subrecipient as a condition of receiving a project award or subaward under the HMGP as outlined in 44 CFR 201.7.

■ 23. Amend § 206.432 by revising paragraphs (b) introductory text, (b)(2) and (3), and (c) to read as follows:

§ 206.432 Federal grant assistance.

* * * * *

(b) *Amounts of assistance.* The total Federal contribution of funds is based on the estimated aggregate grant amount to be made under the Stafford Act for the major disaster (less associated administrative costs), and must be as follows:

* * * * *

(2) *Twenty (20) percent.* A State with an approved Enhanced State Mitigation Plan, in effect before the disaster declaration, which meets the requirements outlined in § 201.5 of this subchapter will be eligible for assistance under the HMGP not to exceed 20 percent of such amounts, for amounts not more than $35.333 billion.

(3) The estimates of Federal assistance under this paragraph (b) will be based on the Regional Administrator's estimate of all eligible costs, actual grants, and appropriate mission assignments.

(c) *Cost sharing.* All mitigation measures approved under the State's grant will be subject to the cost sharing provisions established in the FEMA-State Agreement. FEMA may contribute up to 75 percent of the cost of measures approved for funding under the Hazard Mitigation Grant Program for major disasters declared on or after June 10, 1993. The non-Federal share may exceed the Federal share. FEMA will not contribute to costs above the Federally approved estimate.

■ 24. Amend § 206.433 by revising paragraph (a) to read as follows:

§ 206.433 State responsibilities.

(a) *Recipient.* The State will be the recipient to which funds are awarded and will be accountable for the use of those funds. There may be subrecipients within the State government.

* * * * *

■ 25. Amend § 206.434 by revising paragraphs (a), (b), (c)(1) and (5), (d)(1), and (e) to read as follows:

§ 206.434 Eligibility.

(a) *Eligible entities.* The following are eligible to apply for the Hazard Mitigation Program Grant:

(1) Applicants—States and Indian Tribal governments;

(2) Subapplicants—(i) State agencies and local governments;

(ii) Private nonprofit organizations that own or operate a private nonprofit facility as defined in § 206.221(e). A qualified conservation organization as defined at § 80.3(h) of this chapter is the only private nonprofit organization eligible to apply for acquisition or relocation for open space projects;

(iii) Indian Tribal governments.

(b) *Plan requirement.* (1) Local and Indian Tribal government applicants for project subawards must have an approved local or Tribal Mitigation Plan in accordance with 44 CFR part 201 before receipt of HMGP subaward funding for projects.

(2) Regional Administrators may grant an exception to this requirement in extraordinary circumstances, such as in a small and impoverished community when justification is provided. In these cases, a plan will be completed within 12 months of the award of the project subaward. If a plan is not provided within this timeframe, the project subaward will be terminated, and any costs incurred after notice of subaward's termination will not be reimbursed by FEMA.

(c) * * *

(1) Be in conformance with the State Mitigation Plan and Local or Tribal Mitigation Plan approved under 44 CFR part 201; or for Indian Tribal governments acting as recipients, be in conformance with the Tribal Mitigation Plan approved under 44 CFR 201.7;

* * * * *

(5) Be cost-effective and substantially reduce the risk of future damage, hardship, loss, or suffering resulting from a major disaster. The recipient must demonstrate this by documenting that the project;

(i) Addresses a problem that has been repetitive, or a problem that poses a significant risk to public health and safety if left unsolved,

(ii) Will not cost more than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur,

(iii) Has been determined to be the most practical, effective, and environmentally sound alternative after consideration of a range of options,

(iv) Contributes, to the extent practicable, to a long-term solution to the problem it is intended to address,

(v) Considers long-term changes to the areas and entities it protects, and has manageable future maintenance and modification requirements.

(d) * * * (1) *Planning.* Up to 7% of the State's HMGP award may be used to develop State, Tribal and/or local

mitigation plans to meet the planning criteria outlined in 44 CFR part 201.

* * * * *

(e) *Property acquisitions and relocation requirements.* Property acquisitions and relocation projects for open space proposed for funding pursuant to a major disaster declared on or after December 3, 2007 must be implemented in accordance with part 80 of this chapter.

* * * * *

§ 206.435 [Amended]

■ 26. Amend § 206.435 by removing the word ''shall'' and adding in its place the word ''will'' in the last sentence of paragraph (a).

■ 27. Amend § 206.436 by revising paragraphs (a), (b), (c) introductory text, (c)(1), (e), and (g) to read as follows:

§ 206.436 Application procedures.

(a) *General.* This section describes the procedures to be used by the recipient in submitting an application for HMGP funding. Under the HMGP, the State or Indian Tribal government is the recipient and is responsible for processing subawards to applicants in accordance with 2 CFR parts 200 and 3002. Subrecipients are accountable to the recipient.

(b) *Governor's Authorized Representative.* The Governor's Authorized Representative serves as the grant administrator for all funds provided under the Hazard Mitigation Grant Program. The Governor's Authorized Representative's responsibilities as they pertain to procedures outlined in this section include providing technical advice and assistance to eligible subrecipients, and ensuring that all potential applicants are aware of assistance available and submission of those documents necessary for grant award.

(c) *Hazard mitigation application.* Upon identification of mitigation measures, the State (Governor's Authorized Representative) will submit its Hazard Mitigation Grant Program application to the FEMA Regional Administrator. The application will identify one or more mitigation measures for which funding is requested. The application must include a Standard Form (SF) 424, Application for Federal Assistance, SF 424D, Assurances for Construction Programs, if appropriate, and a narrative statement. The narrative statement will contain any pertinent project management information not included in the State's administrative plan for Hazard Mitigation. The narrative statement will also serve to identify the specific mitigation measures for which funding is requested. Information required for each mitigation measure must include the following:

(1) Name of the subrecipient, if any;

* * * * *

(e) *Extensions.* The State may request the Regional Administrator to extend the application time limit by 30 to 90 day increments, not to exceed a total of 180 days. The recipient must include a justification in its request.

* * * * *

(g) *Indian Tribal recipients.* Indian Tribal governments may submit a SF 424 directly to the Regional Administrator.

■ 28. Amend § 206.437 by revising paragraphs (a), (b)(4)(i), (x), and (xiii), and (d) to read as follows:

§ 206.437 State administrative plan.

(a) *General.* The State must develop a plan for the administration of the Hazard Mitigation Grant Program.

(b) * * *

(4) * * *

(i) Identify and notify potential applicants (subrecipients) of the availability of the program;

* * * * *

(x) Provide technical assistance as required to subrecipient(s);

* * * * *

(xiii) Determine the percentage or amount of pass-through funds for management costs provided under 44 CFR part 207 that the recipient will make available to subrecipients, and the basis, criteria, or formula for determining the subrecipient percentage or amount.

* * * * *

(d) *Approval.* The State must submit the administrative plan to the Regional Administrator for approval. Following each major disaster declaration, the State must prepare any updates, amendments, or plan revisions required to meet current policy guidance or changes in the administration of the Hazard Mitigation Grant Program. Funds will not be awarded until the State Administrative Plan is approved by the FEMA Regional Administrator.

■ 29. Revise § 206.438 to read as follows:

§ 206.438 Project management.

(a) *General.* The State serving as recipient has primary responsibility for project management and accountability of funds as indicated in 2 CFR parts 200 and 3002 and 44 CFR part 206. The State is responsible for ensuring that subrecipients meet all program and administrative requirements.

(b) *Cost overruns.* During the execution of work on an approved mitigation measure the Governor's Authorized Representative may find that actual project costs are exceeding the approved estimates. Cost overruns which can be met without additional Federal funds, or which can be met by offsetting cost underruns on other projects, need not be submitted to the Regional Administrator for approval, so long as the full scope of work on all affected projects can still be met. For cost overruns which exceed Federal obligated funds and which require additional Federal funds, the Governor's Authorized Representative will evaluate each cost overrun and submit a request with a recommendation to the Regional Administrator for a determination. The applicant's justification for additional costs and other pertinent material must accompany the request. The Regional Administrator will notify the Governor's Authorized Representative in writing of the determination and process a supplement, if necessary. All requests that are not justified must be denied by the Governor's Authorized Representative. In no case will the total amount obligated to the State exceed the funding limits set forth in § 206.432(b). Any such problems or circumstances affecting project costs must be identified through the quarterly progress reports required in paragraph (c) of this section.

(c) *Progress reports.* The recipient must submit a quarterly progress report to FEMA indicating the status and completion date for each measure funded. Any problems or circumstances affecting completion dates, scope of work, or project costs which are expected to result in noncompliance with the approved grant conditions must be described in the report.

(d) *Payment of claims.* The Governor's Authorized Representative will make a claim to the Regional Administrator for reimbursement of allowable costs for each approved measure. In submitting such claims the Governor's Authorized Representative must certify that reported costs were incurred in the performance of eligible work, that the approved work was completed and that the mitigation measure is in compliance with the provisions of the FEMA-State Agreement. The Regional Administrator will determine the eligible amount of reimbursement for each claim and approve payment. If a mitigation measure is not completed, and there is not adequate justification for noncompletion, no Federal funding will be provided for that measure.

(e) *Audit requirements.* Uniform audit requirements as set forth in 2 CFR parts 200 and 3002 and 44 CFR part 206

apply to all grant assistance provided under this subpart. FEMA may elect to conduct a Federal audit on the disaster assistance award or on any of the subawards.

■ 30. Amend § 206.439 by revising the second sentence of paragraph (c) to read as follows:

§ 206.439 Allowable costs.

* * * * *

(c) * * * Recipients and subrecipients may be reimbursed for eligible pre-award costs for activities directly related to the development of the project or planning proposal. * * *

■ 31. Amend § 206.440 by revising the introductory text and paragraphs (a), (b) paragraph heading, (c) paragraph heading, (c)(2) and (3), (d), and (e)(3) to read as follows:

§ 206.440 Appeals.

An eligible applicant, subrecipient, or recipient may appeal any determination previously made related to an application for or the provision of Federal assistance according to the procedures in this section.

(a) *Format and content.* The applicant or recipient will make the appeal in writing through the recipient to the Regional Administrator. The recipient-will review and evaluate all subrecipient appeals before submission to the Regional Administrator. The recipient may make recipient-related appeals to the Regional Administrator. The appeal must contain documented justification supporting the appellant's position, specifying the monetary figure in dispute and the provisions in Federal law, regulation, or policy with which the appellant believes the initial action was inconsistent.

* * * * *

(b) *Levels of appeal.* * * *

(c) *Time limits.* * * *

(2) The recipient will review and forward appeals from an applicant or subrecipient, with a written recommendation, to the Regional Administrator within 60 days of receipt.

(3) Within 90 days following receipt of an appeal, the Regional Administrator (for first appeals) or Assistant Administrator for the Mitigation Directorate (for second appeals) will notify the recipient in writing of the disposition of the appeal or of the need for additional information. A request by the Regional Administrator or Assistant Administrator for the Mitigation Directorate for additional information will include a date by which the information must be provided. Within 90 days following the receipt of the requested additional information or following expiration of the period for providing the information, the Regional Administrator or Assistant Administrator for the Mitigation Directorate will notify the recipient in writing of the disposition of the appeal. If the decision is to grant the appeal, the Regional Administrator will take appropriate implementing action.

(d) *Technical advice.* In appeals involving highly technical issues, the Regional Administrator or Assistant Administrator for the Mitigation Directorate may, at his or her discretion, submit the appeal to an independent scientific or technical person or group having expertise in the subject matter of the appeal for advice or recommendation. The period for this technical review may be in addition to other allotted time periods. Within 90 days of receipt of the report, the Regional Administrator or Assistant Administrator for the Mitigation Directorate will notify the recipient in writing of the disposition of the appeal.

(e) * * *

(3) The decision of the FEMA official at the next higher appeal level will be the final administrative decision of FEMA.

Deanne B. Criswell,

Administrator, Federal Emergency Management Agency.

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BILLING CODE 9110–11–P

FEDERAL MARITIME COMMISSION

46 CFR Part 501

[Docket No. 21–07]

RIN 3027–AC88

Internal Commission Organization and Delegations of Authority

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission (Commission) amends its rules governing the Commission's organization and the delegation and redelegation of authorities. These regulatory changes also reflect the implementation of the Commission's Agency Reform and Long-Term Workforce Plan.

DATES: This final rule is effective September 10, 2021.

FOR FURTHER INFORMATION CONTACT: Rachel E. Dickon, Secretary. *Phone:* (202) 523–5725. *Email: secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION:

I. Final Rule

Part 501 describes the basic statutory requirements of the Commission, the internal structure of the Commission, the functions of the Commission's organizational component offices, and outlines the delegation of the Commission's duties and authorities to these offices. The final rule reflects changes made as part of the Commission's Agency Reform and Long-Term Workforce Plan, developed under the guidance of Office of Management and Budget Memorandum 17–22, *Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce,*[1] as well as subsequent organizational changes. The Commission is amending its rules at 46 CFR part 501 to reflect the realignment of various offices and the elimination of certain positions, clarify the authority of office heads to delegate duties in their absence, and eliminate or modify certain out-of-date provisions.

In addition to making necessary updates to part 501, the final rule streamlines the information provided in part 501, removing certain information that the Commission will instead publish on its website or that is currently provided in other parts of the *Code of Federal Regulations.* The chart below describes the existing sections in part 501 and the nature of the changes made in the final rule.

Section	Summary of existing section	Changes made in this final rule
501.1	Purpose of part 501	Retain in part 501 and revise to reflect the changes below.
501.2	Lists the Commission's statutory functions and describes the terms, appointment, and regulations that apply to the Commissioners.	Retain in part 501 and update.

[1] *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/M-17-22.pdf.*

Section	Summary of existing section	Changes made in this final rule
501.3	Discusses outline of the FMC's organizational components and references the organizational chart in appendix A.	Retain in part 501 and revise to include brief description of each organizational component and reference the FMC website.
501.4	Provides the lines of responsibility and the offices/components that report to the Chairman, the Commission, and the Office of the Managing Director.	Remove from part 501 and provide this information via the organizational chart on the Commission website.
501.5	Provides detailed descriptions of the functions of each organizational component and includes cross references to part 501, subpart C (delegations of authority).	Remove from part 501 and streamline the descriptions of the functions of the organizational components in § 501.3.
501.11	Description of the official seal	Remove from part 501 and publish on the Commission's website.
501.21	Identifies the authority upon which the FMC may delegate its authority within the FMC. Provides general delegations of authority and rules relating to such delegations.	Retain in part 501 and update.
501.23–.27	Contains specific delegations of authority to the General Counsel, the Secretary, Managing Director, Director of the Bureau of Certification and Licensing, and the Director of the Bureau of Trade Analysis.	Retain delegations in part 501 and revise.
501.41	Provides procedures related to how the public may secure and request information.	Remove from part 501 because part 503 provides information on how to file an information request.
Appendix A	Organizational Chart	Remove from part 501 and continue to publish on the Commission's website.

Because the changes made in this proceeding reflect changes made to the internal procedure and organization of the Commission, and are routine and administrative, this rule is published as final. *See* 5 U.S.C. 553(b)(A) (excluding rules of agency organization, procedure, and practice from the notice and comment requirements of the Administrative Procedure Act).

II. Rulemaking Analyses and Notices

Congressional Review Act

The final rule is not a ''rule'' as defined by the Congressional Review Act (CRA), codified at 5 U.S.C. 801 *et seq.,* and is not subject to the provisions of the CRA. The CRA adopts the Administrative Procedure Act's definition of a ''rule'' in 5 U.S.C. 551, subject to certain exclusions. *See* 5 U.S.C. 804(3). In particular, the CRA does not apply to rules relating to agency management and personnel and rules of agency organization, procedure, and practice that do not substantially affect the rights or obligations of non-agency parties. *Id.* This final rule relates to agency management and personnel as well as agency organization, procedures, and practices. Specifically, the final rule reflects changes to the internal management structure of the Commission, the elimination and addition of certain positions, and updates to out-of-date provisions regarding the Commission's internal organization. Neither the regulated community nor the public are substantially affected by these internal organizational changes. Therefore, the final rule is not a ''rule'' under the CRA and is not subject to the CRA's requirements.

Regulatory Flexibility Act

The Regulatory Flexibility Act (codified as amended at 5 U.S.C. 601–612) provides that whenever an agency promulgates a final rule after being required to publish a notice of proposed rulemaking under the Administrative Procedure Act (APA) (5 U.S.C. 553), the agency must prepare and make available for public comment a final regulatory flexibility analysis (FRFA) describing the impact of the rule on small entities. 5 U.S.C. 604. An agency is not required to publish a FRFA, however, for the following types of rules, which are excluded from the APA's notice-and-comment requirement: Interpretive rules; general statements of policy; rules of agency organization, procedure, or practice; and rules for which the agency for good cause finds that notice and comment is impracticable, unnecessary, or contrary to public interest. *See* 5 U.S.C. 553(b). As explained above, this final rule is a rule of agency organization, procedure, or practice. Therefore, the APA does not require publication of a notice of proposed rulemaking in this instance, and the Commission is not required to prepare a FRFA.

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. This final rule makes changes to the Commission's internal organization and management structure, and thus falls within the categorical exclusion for matters related to Commission personnel. *See* 46 CFR 504.4(a)(28). 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) 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 rules to OMB in conjunction with the publication of the notice of proposed rulemaking. 5 CFR 1320.11. This final rule does not contain any collections of information, as defined by 44 U.S.C. 3502(3) and 5 CFR 1320.3(c).

Effective Date

The Administrative Procedure Act generally requires that a rule may not go into effect earlier than 30 days after publication in the **Federal Register**, unless an agency finds good cause for prescribing an earlier effective date. *See* 5 U.S.C. 553(c)(3). As described above, the final rule reflects internal organizational changes that have already been made as part of the of the Commission's Agency Reform and Long-Term Workforce Plan, and these changes do not materially affect regulated entities or the public. Accordingly, a delayed effective date is unnecessary, and the Commission finds that good cause exists for this rule to go into effect immediately upon publication in the **Federal Register**.

Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards in E.O. 12988 titled, ''Civil Justice Reform,'' to minimize litigation, eliminate ambiguity, and reduce burden. Section 3(b) of E.O. 12988 requires agencies to make every reasonable effort to ensure that each new regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

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 of this document to find this action in the Unified Agenda, available at *http://www.reginfo.gov/public/do/eAgendaMain.*

List of Subjects in 46 CFR Part 501

Authority delegations, Commission organization and functions.

■ For the reasons stated in the preamble, the Commission revises 46 CFR part 501 to read as follows:

PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL

Subpart A—Organization and Functions

Sec.
501.1 Purpose.
501.2 General.
501.3 The Commission's organizational components and their functions.

Subpart B—Delegation and Redelegation of Authorities

501.11 Delegation of authorities.
501.12 Delegation to the General Counsel.
501.13 Delegation to the Secretary.
501.14 Delegation to and redelegation by the Managing Director.
501.15 Delegation to the Chief Financial Officer.
501.16 Delegation to and redelegation by the Director, Bureau of Certification and Licensing.
501.17 Delegation to and redelegation by the Director, Bureau of Trade Analysis.

Authority: 5 U.S.C. 551–557, 571–584, 701–706, 2903, and 6304; 31 U.S.C. 3721; 41 U.S.C. 414 and 418; 44 U.S.C. 501–520 and 3501–3520; 46 U.S.C. 40101–41309, 42101–42109, 44101–44106, and 46101–46108; 5 CFR part 2638.

Subpart A—Organization and Functions

§ 501.1 Purpose.

This part describes the organization, functions, and the delegation of authority within, the Federal Maritime Commission (''Commission'').

§ 501.2 General.

(a) *Statutory functions.* The Commission regulates common carriers by water and other persons involved in the oceanborne foreign commerce of the United States under provisions of title 46, subtitle IV of the United States Code and other applicable statutes.

(b) *Establishment and composition of the Commission.* The Commission was established as an independent agency by Reorganization Plan No. 7 of 1961, effective August 12, 1961, and is composed of five Commissioners (''Commissioners'' or ''members''), appointed by the President, by and with the advice and consent of the Senate. Not more than three Commissioners may be appointed from the same political party. The President designates one of the Commissioners to serve as the Chairman of the Commission (''Chairman'').

(c) *Terms and vacancies*—(1) *Length of terms.* The term of each member of the Commission is five years and begins when the term of the predecessor of that member ends (*i.e.,* on June 30 of each successive year).

(2) *Removal.* The President may remove a Commissioner for inefficiency, neglect of duty, or malfeasance in office.

(3) *Vacancies.* A vacancy in the office of any Commissioner is filled in the same manner as the original appointment. An individual appointed to fill a vacancy is appointed only for the unexpired term of the individual being succeeded.

(4) *Term limits*—(i) *Commissioners initially appointed and confirmed before December 18, 2014.* When a Commissioner's term ends, the Commissioner may continue to serve until a successor is appointed and qualified.

(ii) *Commissioners initially appointed and confirmed on or after December 18, 2014.* (A) When a Commissioner's term ends, the Commissioner may continue to serve until a successor is appointed and qualified, limited to a period not to exceed one year.

(B) No individual may serve more than two terms, except that an individual appointed to fill a vacancy may serve two terms in addition to the remainder of the term for which the predecessor of that individual was appointed.

(d) *Quorum.* A vacancy or vacancies in the Commission shall not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the members of the Commission is required to dispose of any matter before the Commission. For purposes of holding a formal meeting for the transaction of the business of the Commission, the actual presence of two Commissioners shall be sufficient. Proxy votes of absent members shall be permitted.

(e) *Meetings; records; rules and regulations.* The Commission shall, through its Secretary, keep a true record of all its meetings and the yea-and-nay votes taken therein on every action and order approved or disapproved by the Commission. In addition to or in aid of its functions, the Commission adopts rules and regulations in regard to its powers, duties, and functions under the shipping statutes it administers.

§ 501.3 The Commission's organizational components and their functions.

(a) *Office of the Chairman of the Federal Maritime Commission*—(1) *General.* The Chairman is the chief executive and administrative officer of the Commission. In addition, the Chairman, as ''head of the agency,'' has certain responsibilities under Federal laws and directives not specifically related to shipping.

(2) *Management and supervision.* The Chairman provides management direction to the Office of Equal Employment Opportunity, Office of the Secretary, Office of the General Counsel, Office of the Administrative Law Judges, and Office of the Managing Director. Subject to the approval of the Commission, the Chairman appoints the heads of the major organizational units, which include the Office of the Secretary, Office of the General Counsel, Office of the Administrative Law Judges, Office of the Managing Director, Bureau of Trade Analysis, Bureau of Certification and Licensing, Bureau of Enforcement, and Office of Consumer Affairs and Dispute Resolution Services. The Chairman appoints or designates and oversees the Director, Office of Equal Employment Opportunity, who advises and assists the Chairman, the Commissioners, and other principal officers of the Commission in carrying out their responsibilities relative to Titles VI and VII of the Civil Rights Act

of 1964 (as amended), other laws, Executive orders, and regulatory guidelines affecting affirmative employment and the processing of equal employment opportunity (EEO) complaints.

(b) *Commissioners.* The members of the Commission, including the Chairman, implement various shipping statutes and related directives by rendering decisions, issuing orders, and adopting and enforcing rules and regulations governing persons subject to the shipping statutes.

(1) The Office of Inspector General (OIG) reports to and is under the general supervision of the Commissioners. The OIG is an independent and objective oversight office created within the Commission that conducts audits and investigations relating to the programs and operations of the Commission and recommends policies designed to promote economy, efficiency, and effectiveness in the administration of, and to prevent and detect waste, fraud, and abuse in, such programs and operations.

(2) [Reserved]

(c) *Office of the Secretary.* The Office of the Secretary is responsible for the preparation, maintenance and disposition of the Commission's official files and records; overseeing the Commission's website; and managing the Commission's library and related services. The Office of the Secretary also administers the Commission's Freedom of Information Act, Privacy Act, and Government in the Sunshine Act responsibilities, with the Secretary serving as the Freedom of Information Act and Privacy Act Officer.

(d) *Office of the General Counsel*—(1) *General.* The Office of the General Counsel provides legal services to the Commission and to the Commission staff, and manages the Commission's international affairs functions.

(2) *Designated Agency Ethics Official.* The Designated Agency Ethics Official and Alternate are agency employees in the Office of the General Counsel formally designated to coordinate and manage the ethics program and serve as the Commission's designee(s) to the Office of Government Ethics on such matters.

(e) *Office of Administrative Law Judges.* The Office of Administrative Law Judges holds hearings and renders initial decisions in adjudicatory proceedings as provided in 46 U.S.C. chapters 401–413 and 441 and other applicable laws, and other matters assigned by the Commission, in accordance with the Administrative Procedure Act and the Commission's Rules of Practice and Procedure in part 502 of this chapter.

(f) *Office of the Managing Director*—(1) *General duties of the Managing Director*—(i) *Chief Operating Officer.* The Managing Director is responsible to the Chairman for the management and coordination of Commission programs managed by the Director of Enterprise Services; Office of Budget and Finance; Office of Consumer Affairs and Dispute Resolution Services; Office of Human Resources; Office of Information Technology; Office of Management Services; Bureau of Certification and Licensing; Bureau of Trade Analysis; Bureau of Enforcement; and the Commission's Area Representatives, as more fully described in paragraphs (f)(2) and (3) of this section, and thereby implements the regulatory policies of the Commission and the administrative policies and directives of the Chairman.

(ii) *Administrative direction.* The Managing Director provides administrative direction to all organizational components, except for the OIG.

(2) *General duties.* The Office of the Managing Director interprets and administers governmental policies and programs in a manner consistent with Federal guidelines, including those involving financial management, human resources, information technology, and procurement. The Office of the Managing Director is responsible for directing and administering the Commission's training and development function.

(3) *Management and supervision.* Other officers and offices under the management direction of the Managing Director are as follows:

(i) *Director, Enterprise Services.* The Director, Enterprise Services (D/ES) is the Commission's Chief Financial Officer (CFO) and has responsibility for internal and external communications relating to the budget and financial management. The D/ES works with the Directors, Office of Budget and Finance, Office of Human Resources, Office of Information Technology, and Office of Management Services, to manage the day-to-day administrative operations of the Commission.

(ii) *Office of Budget and Finance.* The Office of Budget and Finance administers the Commission's financial management program, including fiscal accounting activities, fee and forfeiture collections, and payments, and ensures that Commission obligations and expenditures of appropriated funds are proper.

(iii) *Office of Consumer Affairs and Dispute Resolution Services.* The Office of Consumer Affairs and Dispute Resolution Services has responsibility for developing and implementing the Alternative Dispute Resolution Program, responds to consumer inquiries and complaints, and coordinates the Commission's efforts to resolve disputes within the shipping industry. The Office reviews existing and proposed legislation and regulations for impact on the shipping industry and its consumers and recommends appropriate policies and regulations to facilitate trade.

(iv) *Office of Human Resources.* The Office of Human Resources plans and administers a complete personnel management program.

(v) *Office of Information Technology.* The Office of Information Technology administers the Commission's information technology (''IT'') program under the Paperwork Reduction Act of 1995, as amended, as well as other applicable laws that prescribe responsibility for operating the IT program.

(vi) *Office of Management Services.* The Office of Management Services administers a variety of management support service functions of the Commission.

(vii) *Bureau of Certification and Licensing.* The Bureau of Certification and Licensing, through the Office of Transportation Intermediaries, has responsibility for reviewing applications and triennial renewals for Ocean Transportation Intermediary (''OTI'') licenses, and maintaining records about licensees and registrations, managing all activities with respect to evidence of financial responsibility for OTIs, and for developing and maintaining all Bureau databases and records of OTI applicants, licensees, and registrations. In addition, the Bureau of Certification and Licensing has responsibility for reviewing applications and renewals for certificates of financial responsibility with respect to passenger vessels, reviewing requests for substitution of alternative forms of financial protection, managing all activities with respect to evidence of financial responsibility for passenger vessel owner/operators, and for developing and maintaining all Bureau databases and records of passenger vessel owner/operators.

(viii) *Bureau of Trade Analysis.* The Bureau of Trade Analysis reviews agreements and monitors the concerted activities of ocean common carriers and marine terminal operators, reviews and analyzes service contracts, monitors rates of government-controlled carriers, reviews carrier published tariff systems, responds to inquiries or issues that arise concerning service contracts or tariffs, and is responsible for competition oversight and market analysis.

(ix) *Bureau of Enforcement.* The Bureau of Enforcement conducts investigations and recommends enforcement action, and provides legal support related to enforcement to other Commission offices. The Bureau of Enforcement also: Participates as trial counsel in formal Commission proceedings when designated by Commission order, or when intervention is granted; negotiates informal compromises of civil penalties subject to the prior approval of the Commission; prepares and presents compromise agreements for Commission approval; and represents the Commission in proceedings and circumstances as designated.

(x) *Area Representatives.* Area Representatives represent the Commission within their respective geographic area; act as a liaison between the Commission and interested parties such as members of the shipping industry, state and local governments, and members of the public; furnish to interested persons information, advice, and access to Commission public documents; receive and resolve informal complaints, in coordination with the Director, Office of Consumer Affairs and Dispute Resolution Services; investigate potential violations of the shipping statutes and the Commission's regulations; and provide assistance to the various bureaus and offices of the Commission, as appropriate and when requested.

Subpart B—Delegation and Redelegation of Authorities

§ 501.11 Delegation of authorities.

(a) *Authority and delegation.* The provision at 46 U.S.C. 46106 authorizes the Commission to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, an administrative law judge, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business, or matter. The Commission delegates specific authorities to the delegatees designated in §§ 501.12 through 501.17, subject to the limitations prescribed in this section.

(b) *Temporary redelegation.* When the head of a bureau or office is absent or incapacitated, they may temporarily redelegate their authorities to subordinate personnel under their supervision and direction or to another bureau or office head for the period of their absence or incapacitation.

(c) *Redelegation.* Other than temporary redelegations under paragraph (b) of this section, and subject to the limitations in this section, the delegatees may redelegate their authorities to subordinate personnel under their supervision and direction only if this subpart is amended to reflect such redelegation and notice thereof is published in the **Federal Register**.

(d) *Exercise of authority; policy and procedure.* The delegatees and redelegatees shall exercise the authorities delegated or redelegated in a manner consistent with applicable laws and the established policies of the Commission, and shall consult with the General Counsel where appropriate.

(e) *Exercise of delegated authority by delegator.* Under any authority delegated or redelegated, the delegator (Commission), or the redelegator, respectively, shall retain full rights to exercise the authority in the first instance.

(f) *Review of delegatee's action.* The delegator (Commission) or redelegator of authority shall retain a discretionary right to review an action taken under delegated authority by a subordinate delegatee, either upon the filing of a written petition of a party to, or an intervenor in, such action; or upon the delegator's or redelegator's own initiative.

(1) *Petition.* Petitions for review of actions taken under delegated authority shall be filed within ten (10) calendar days of the action taken:

(i) If the action for which review is sought is taken by a delegatee, the petition shall be addressed to the Commission pursuant to § 502.94 of this chapter.

(ii) If the action for which review is sought is taken by a redelegatee, the petition shall be addressed to the redelegator whose decision can be further reviewed by the Commission under paragraph (f)(1)(i) of this section, unless the Commission decides to review the matter directly, such as, for example, if the redelegator is incapacitated.

(2) *Discretionary review.* The vote of a majority of the Commission less one member (*e.g.,* two Commissioners if there are a total of four or five sitting Commissioners; one Commissioner if there are a total of three or fewer sitting Commissioners) shall be sufficient to bring any delegated action before the Commission for review under this paragraph (f).

(g) *Action—when final.* Should the right to exercise discretionary review be declined or should no such review be sought under paragraph (f) of this section, then the action taken under delegated authority shall, for all purposes, including appeal or review thereof, be deemed to be the action of the Commission.

(h) *Conflicts.* Where the procedures set forth in this section conflict with law or any regulation of this chapter, the conflict shall be resolved in favor of the law or other regulation.

§ 501.12 Delegation to the General Counsel.

(a) Authority to classify carriers within the meaning of 46 U.S.C. 40102(9) except where a carrier submits a rebuttal statement pursuant to § 565.3(b) of this chapter.

(b) Authority to review for legal sufficiency all adverse personnel actions, procurement activities, Freedom of Information Act matters, Privacy Act matters, and requests for testimony by employees and production of official records in litigation and other administrative actions, pursuant to part 503, subpart E, of this chapter.

§ 501.13 Delegation to the Secretary.

(a) Authority to approve applications for permission to practice before the Commission and to issue admission certificates to approved applicants.

(b) Authority to extend the time to file exceptions or replies to exceptions, and the time for Commission review, relative to initial decisions of administrative law judges and decisions of Special Dockets Officers.

(c) Authority to extend the time to file appeals or replies to appeals, and the time for Commission review, relative to dismissals of proceedings, in whole or in part, issued by administrative law judges.

(d) Authority to establish and extend or reduce the time:

(1) To file documents either in docketed proceedings or relative to petitions filed under part 502 of this chapter, which are pending before the Commission itself; and

(2) To issue initial and final decisions under § 502.61 of this chapter.

(e) Authority to prescribe a time limit for the submission of written comments with reference to agreements filed pursuant to 46 U.S.C. chapter 403.

(f) Authority, in appropriate cases, to publish in the **Federal Register** notices of intent to prepare an environmental assessment and notices of finding of no significant impact.

(g) Authority to prescribe a time limit less than ten days from the date published in the **Federal Register** for filing comments on notices of intent to prepare an environmental assessment and notice of finding of no significant impact and authority to prepare

environmental assessments of no significant impact.

§ 501.14 Delegation to and redelegation by the Managing Director.

(a) Authority to adjudicate, with the concurrence of the General Counsel, and authorize payment of, employee claims for not more than $10,000.00, arising under the Military and Civilian Personnel Property Act of 1964 (31 U.S.C. 3721) and the Federal Tort Claims Act (28 U.S.C. 1346(b), 2671–2680).

(b) Authority to determine that an exigency of the public business is of such importance that annual leave may not be used by employees to avoid forfeiture before annual leave may be restored under 5 U.S.C. 6304.

(c)(1) Authority to classify all positions GS–1 through GS–15 and wage grade positions.

(2) The authority under paragraph (c)(1) of this section is redelegated to the Director, Office of Human Resources.

§ 501.15 Delegation to the Chief Financial Officer.

(a) Authority to approve, certify, or otherwise authorize those actions dealing with appropriations of funds made available to the Commission including allotments, fiscal matters, and contracts relating to the operation of the Commission within the laws, rules, and regulations set forth by the Federal Government.

(b) Authority, in the absence or preoccupation of the Managing Director, to sign travel orders, non-docketed recommendations to the Commission, and other routine documents for the Managing Director, consistent with the programs, policies, and precedents established by the Commission or the Managing Director.

§ 501.16 Delegation to and redelegation by the Director, Bureau of Certification and Licensing.

(a) In relation to OTI licenses:

(1) Authority to approve or disapprove applications for OTI licenses; issue or reissue or transfer such licenses; and approve extensions of time in which to furnish the name(s) and ocean transportation intermediary experience of the managing partner(s) or officer(s) who will replace the qualifying partner or officer upon whose qualifications the original licensing was approved;

(2) Authority to issue a letter stating that the Commission intends to deny an OTI application unless, within 20 days, applicant requests a hearing to show that denial of the application is unwarranted; deny applications where an applicant has received such a letter and has not requested a hearing within the notice period; and rescind, or grant extensions of, the time specified in such letters;

(3) Authority to revoke the license of an OTI upon the request of the licensee;

(4) Authority to, upon receipt of notice of cancellation of any instrument evidencing financial responsibility, notify the licensee in writing that its license will automatically be suspended or revoked, effective on the cancellation date of such instrument, unless new or reinstated evidence of financial responsibility is submitted and approved prior to such date, and subsequently order such suspension or revocation for failure to maintain proof of financial responsibility;

(5) Authority to revoke the ocean transportation intermediary license of a non-vessel-operating common carrier not in the United States for failure to designate and maintain a person in the United States as legal agent for the receipt of judicial and administrative process;

(6) Authority to approve changes in an existing licensee's organization; and

(7) Authority to return any application which on its face fails to meet the requirements of the Commission's regulations, accompanied by an explanation of the reasons for rejection.

(8) The authorities contained in paragraphs (a)(3) and (4) of this section are redelegated to the Director, Transportation Intermediaries, in the Bureau of Certification and Licensing.

(b) In relation to Certificates:

(1) Authority to approve applications for Certificates (Performance) and Certificates (Casualty) for passenger vessels, evidenced by a surety bond, guaranty, escrow agreements, or insurance policy, or combination thereof; and issue, reissue, or amend such Certificates;

(2) Authority to issue a written notice to an applicant stating intent to deny an application for a Certificate (Performance) and/or (Casualty), indicating the reason therefor, and advising applicant of the time for requesting a hearing as provided for under § 540.8(c) or § 540.26(c) of this chapter; deny any application where the applicant has not submitted a timely request for a hearing; and rescind such notices and grant extensions of the time within which a request for hearing may be filed;

(3) Authority to issue a written notice to a certificant stating that the Commission intends to revoke, suspend, or modify a Certificate (Performance) and/or (Casualty), indicating the reason therefor, and advising of the time for requesting a hearing as provided for under § 540.8(c) or § 540.26(c) of this chapter; revoke, suspend or modify a Certificate (Performance) and/or (Casualty) where the certificant has not submitted a timely request for hearing; and rescind such notices and grant extensions of time within which a request for hearing may be filed;

(4) Authority to revoke a Certificate (Performance) and/or (Casualty) which has expired, and/or upon request of, or acquiescence by, the certificant; and

(5) Authority to notify a certificant when a Certificate (Performance) and/or (Casualty) has become null and void in accordance with §§ 540.8(a) and 540.26(a) of this chapter.

(c) Authority to approve amendments to escrow agreements filed under § 540.5(b) of this chapter when such amendments are for the purpose of changing names of principals, changing the vessels covered by the escrow agreement, changing the escrow agent, and changing the amount of funds held in escrow, provided that the changes in amount of funds result in an amount of coverage that complies with the requirements in the introductory text of § 540.5 of this chapter.

(d) Authority to grant requests to substitute alternative financial responsibility pursuant to § 540.9(l) of this chapter based upon existing protection available to purchases of passenger vessel transportation by credit card by an amount up to fifty (50) percent of the passenger vessel operator's highest two-year unearned passenger revenues.

§ 501.17 Delegation to and redelegation by the Director, Bureau of Trade Analysis.

(a) Authority to determine that no action should be taken to prevent an agreement or modification to an agreement from becoming effective under 46 U.S.C. 40304(c), and to shorten the review period under 46 U.S.C. 40304(c)(1) and (e)(1), when the agreement or modification involves solely a restatement, clarification, or change in an agreement which adds no new substantive authority beyond that already contained in an effective agreement. This category of agreement or modification includes, for example, the following: A restatement filed to conform an agreement to the format and organization requirements of part 535 of this chapter; a clarification to reflect a change in the name of a country or port or a change in the name of a party to the agreement; a correction of typographical or grammatical errors in the text of an agreement; a change in the title of persons or committees designated in an agreement; or a transfer of functions

from one person or committee to another.

(b) Authority to grant or deny applications filed under § 535.407 of this chapter for waiver of the form, organization, and content requirements of §§ 535.401 through 535.406 of this chapter.

(c) Authority to grant or deny applications filed under § 535.504 of this chapter for waiver of the Information Form requirements in subpart E of part 535 of this chapter.

(d) Authority to grant or deny applications filed under § 535.705 of this chapter for waiver of the reporting requirements in subpart G of part 535 of this chapter.

(e) Authority to determine that no action should be taken to prevent an agreement or modification of an agreement from becoming effective under 46 U.S.C. 40304(c)(1) for all unopposed agreements and modifications to agreements which will not result in a significant reduction in competition. Agreements which are deemed to have the potential to result in a significant reduction in competition and which, therefore, are not covered by the delegation in this paragraph (e) include but are not limited to:

(1) New agreements authorizing the parties to collectively discuss or fix rates (including terminal rates).

(2) New agreements authorizing the parties to pool cargoes or revenues.

(3) New agreements authorizing the parties to establish a joint service or consortium.

(4) New equal access agreements.

(f) Authority to grant or deny shortened review pursuant to § 535.605 of this chapter for agreements for which authority is delegated in paragraph (e) of this section.

(g) Subject to review by the General Counsel, authority to deny, but not approve, requests filed pursuant to § 535.605 of this chapter for a shortened review period for agreements for which authority is not delegated under paragraph (e) of this section.

(h) Authority to issue notices of termination of agreements which are otherwise effective under the Shipping Act of 1984, after publication of notice of intent to terminate in the **Federal Register**, when such terminations are:

(1) Requested by the parties to the agreement;

(2) Deemed to have occurred when it is determined that the parties are no longer engaged in activity under the agreement and official inquiries and correspondence cannot be delivered to the parties; or

(3) Deemed to have occurred by notification of the withdrawal of the next to last party to an agreement without notification of the addition of another party prior to the effective date of the next to last party's withdrawal.

(i) Authority to determine whether agreements for the use or operation of terminal property or facilities, or the furnishing of terminal services, are within the purview of 46 U.S.C. chapter 403.

(j) Authority to request controlled carriers to file justifications for existing or proposed rates, charges, classifications, rules, or regulations, and to review responses to such requests for the purpose of recommending to the Commission that a rate, charge, classification, rule, or regulation be found unlawful and, therefore, requires Commission action under 46 U.S.C. 40704(b)–(e).

(k) Authority to recommend to the Commission the initiation of formal proceedings or other actions with respect to suspected violations of the shipping statutes and rules and regulations of the Commission.

(l)(1) Authority to approve for good cause or disapprove special permission applications submitted by common carriers, or conferences of such carriers, subject to 46 U.S.C. chapter 405, for relief from statutory and/or Commission tariff requirements.

(2) The authority under this paragraph (l) is redelegated to the Director of Agreements, Service Contracts, and Tariffs, in the Bureau of Trade Analysis.

(m)(1) Authority to approve or disapprove special permission applications submitted by a controlled carrier subject to the provisions of 46 U.S.C. chapter 407 for relief from statutory and/or Commission tariff requirements.

(2) The authority under this paragraph (m) is redelegated to the Director of Agreements, Service Contracts, and Tariffs, in the Bureau of Trade Analysis.

(n)(1) The authority to accept, deny, or deactivate a Form FMC–1 submitted by ocean common carriers, non-vessel-operating common carriers, conferences, and marine terminal operators under parts 520 and 525 of this chapter.

(2) The authority under this paragraph (n) is redelegated to the Director of Agreements, Service Contracts, and Tariffs, in the Bureau of Trade Analysis.

(o) Authority contained in part 530 of this chapter to approve, but not deny, requests for permission to correct clerical or administrative errors in the essential terms of filed service contracts.

(p) Authority to require Monitoring Reports from, or prescribe alternative periodic reporting requirements for, parties to agreements under § 535.702(c) and (d) of this chapter.

(q) Authority to require parties to agreements subject to the Monitoring Report requirements in § 535.702(a)(2) of this chapter to report their agreement commodity data on a sub-trade basis pursuant to § 535.703(d) of this chapter.

By the Commission.

Rachel E. Dickon,

Secretary.

[FR Doc. 2021–19078 Filed 9–9–21; 8:45 am]

BILLING CODE 6730–02–P

Proposed Rules

Federal Register
Vol. 86, No. 173
Friday, September 10, 2021

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0741; Airspace Docket No. 21–AWP–50]

RIN 2120–AA66

Proposed Revocation of United States Area Navigation Routes Q–162 and Q–166; Bishop, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke United States Area Navigation (RNAV) routes Q–162 and Q–166 in the vicinity of Bishop, CA due to the establishment of a new RNAV route, Q–174, that provides better connectivity for the Las Vegas Terminal area arrivals.

DATES: Comments must be received on or before October 25, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1 (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0741; Airspace Docket No. 21–AWP–50 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2021–0741; Airspace Docket No. 21–AWP–50) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0741; Airspace Docket No. 21–AWP–50.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of Operations Support Group, Western Service Center, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

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

Background

In 2003, Congress enacted the Vision 100-Century of Aviation

Reauthorization Act (Pub. L. 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of the NextGen efforts to improve the safety and efficiency of the NAS, the Las Vegas Metroplex Project recently established a new RNAV route, Q–174, to serve the Las Vegas Terminal Area arrivals in conjunction with new standard terminal arrival routes. There are two existing airways, Q–162 and Q–166, which had been utilized for the same purpose as Q–174, but no longer provide the necessary connectivity to the new procedures. The FAA proposes to revoke RNAV routes Q–162 and Q–166, since these routes no longer serve a purpose in the NAS.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revoke RNAV routes Q–162 and Q–166 due to the establishment of RNAV route Q–174 that provides better connectivity to the new Las Vegas Terminal Arrival routes. The proposed changes are outlined below.

Q–162: Q–162 currently navigates between the NTELL, CA waypoint (WP) and the MYCAL, NV WP. The FAA proposes to revoke the route in its entirety.

Q–166: Q–166 currently navigates between the VIKSN, CA WP and the BIKKR, CA WP. The FAA proposes to revoke the route in its entirety.

United States Area Navigation routes are published in paragraph 2006 of FAA Order 7400.11E dated July 21, 2020 and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The RNAV routes listed in this document would be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 2006 United States Area Navigation Routes.

* * * * *

Q–162 NTELL, CA TO MYCAL, NV [Remove]

* * * * *

Q–166 VIKSN, CA TO BIKKR, CA [Remove]

* * * * *

Issued in Washington, DC, on August 3, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–19512 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[REG–109077–21]

RIN 1545–BQ08

Recapture of Excess Employment Tax Credits Under the American Relief Plan Act of 2021

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations pursuant to the regulatory authority granted under sections 3131, 3132, and 3134 of the Internal Revenue Code, added by sections 9641 and 9651 of the American Rescue Plan Act of 2021, to prescribe regulations as may be necessary for recapturing the benefit of the employment tax credits provided under these sections when necessary and to prevent the avoidance of the purposes of the limitations under these sections. These proposed regulations affect businesses and tax-exempt organizations, as well as certain governmental entities, that claim the paid sick leave credit and the paid family leave credit under sections 3131 and 3132, respectively, and that claim the employee retention credit under section 3134. The text of those temporary regulations serves as the text of these proposed regulations.

DATES: Written or electronic comments and requests for a public hearing must be received by November 9, 2021.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–109077–21) by following the online instructions for submitting comments. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The IRS expects to have limited personnel available to process public comments that are submitted on paper through the mail. Until further notice, any comments submitted on paper will be considered to the extent practicable. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted electronically, and to the extent practicable on paper, to its

public docket. Send paper submissions to: CC:PA:LPD:PR (REG–109077–21), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044.

Requests for a public hearing must be submitted as prescribed in the Comments and Requests for a Public Hearing section.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, NaLee Park at (202) 317–6879; concerning submissions of comments and/or requests for a public hearing, Regina Johnson at (202) 317–5177 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Employment Taxes and Collection of Income at the Source Regulations (26 CFR part 31) under sections 3131, 3132, and 3134 of the Internal Revenue Code (Code) pursuant to the regulatory authority granted under these sections to prescribe regulations as may be necessary for recapturing the benefit of the employment tax credits provided under these sections when necessary and to prevent the avoidance of the purposes of the limitations under these sections. Consistent with this authority, these proposed regulations authorize the assessment of erroneous refunds of the credits paid under sections 3131, 3132 (including any increases in those credits under section 3133), and 3134. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analyses

The Office of Management and Budget's Office of Information and Regulatory Analysis has determined that these regulations are not significant and not subject to review under section 6(b) of Executive Order 12866.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), the Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities because these proposed regulations impose no compliance burden on any business entities, including small entities. Although these proposed regulations will apply to all employers eligible for the credits under sections 3131, 3132, and 3134, including small businesses and tax-exempt organizations with fewer than 500 employees as well as certain governmental employers, and therefore are likely to affect a substantial number of small entities, the economic impact will not be significant. These proposed regulations do not affect the employer's employment tax reporting or the necessary information to substantiate entitlement to the credits. Rather, these proposed regulations merely implement the statutory authority granted under sections 3131(g), 3132 (g), 3134(j), and 3134(m) that authorize the Service to assess, reconcile, and recapture any portion of the credits erroneously paid or refunded in excess of the actual amount allowed as if those amounts were taxes imposed under section 3111(b) (the Hospital Insurance tax (Medicare tax)), and so much of the taxes imposed under section 3221(a) (the Railroad Retirement Tax Act Tier 1 tax) as are attributable to the rate in effect under section 3111(b), as applicable, subject to assessment and administrative collection procedures. Notwithstanding this certification, the Treasury Department and the IRS invite comments on any impact these regulations would have on small entities.

Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel of the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are timely submitted to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of these proposed regulations. Any electronic comments submitted, and to the extent practicable any paper comments submitted, will be made available at *www.regulations.gov* or upon request.

A public hearing will be scheduled if requested in writing by any person who timely submits electronic or written comments. Requests for a hearing are strongly encouraged to be submitted electronically. If a public hearing is scheduled, notice of the date and time for the public hearing will be published in the **Federal Register**. Announcement 2020–4, 2020–17 IRB 1, provides that until further notice, public hearings conducted by the IRS will be held telephonically. Any telephonic hearing will be made accessible to people with disabilities.

Statement of Availability of IRS Documents

IRS notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

Drafting Information

The principal author of these regulations is NaLee Park, Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the Treasury Department and the IRS participated in the development of these regulations.

List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 31 is proposed to be amended as follows:

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

■ **Paragraph 1.** The authority citation for part 31 is amended by adding entries for §§ 31.3131–1, 31.3132–1, and 31.3134–1 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 31.3131–1 also issued under 26 U.S.C. 3131(g).

Section 31.3132–1 also issued under 26 U.S.C. 3132(g).

Section 31.3134–1 also issued under 26 U.S.C. 3134(m)(3).

* * * * *

■ **Par. 2.** Section 31.3131–1 is added to read as follows:

§ 31.3131–1 Recapture of credits.

[The text of proposed § 31.3131–1 is the same as the text of § 31.3131–1T published elsewhere in this issue of the **Federal Register**].

■ **Par. 3.** Section 31.3132–1 is added to read as follows:

§ 31.3132–1 Recapture of credits.

[The text of proposed § 31.3132–1 is the same as the text of § 31.3132–1T published elsewhere in this issue of the **Federal Register**].

■ **Par. 4.** Section 31.3134–1 is added to read as follows:

§ 31.3134–1 Recapture of credits.

[The text of proposed § 31.3134–1 is the same as the text of § 31.3134–1T published elsewhere in this issue of the **Federal Register**].

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2021–19523 Filed 9–8–21; 4:15 pm]

BILLING CODE 4830–01–P

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 502, 511, 539, 552, and 570

[GSAR Case 2016–G511; Docket No. 2021–0018; Sequence No. 1]

RIN 3090–AJ84

General Services Acquisition Regulation (GSAR); GSAR Case 2016–G511, Contract Requirements for GSA Information Systems

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

ACTION: Proposed rule.

SUMMARY: GSA is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to streamline and update requirements for contracts that involve GSA information systems. The revision of GSA's cybersecurity and other information technology requirements will lead to the elimination of a duplicative and outdated provision and clause from the GSAR. The proposed rule will replace the outdated text with existing policies of the GSA Office of the Chief Information Officer (OCIO) and provide centralized guidance to ensure consistent application across the organization. The updated GSA policy will align cybersecurity requirements based on the items being procured by ensuring contract requirements are coordinated with GSA's Chief Information Security Officer.

DATES: Interested parties should submit written comments to the Regulatory Secretariat at one of the addresses shown below on or before November 9, 2021 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to GSAR case 2016–G511 to: *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching for ''GSAR Case 2016–G511''. Select the link ''Comment Now'' that corresponds with GSAR Case 2016–G511. Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''GSAR Case 2016–G511'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite GSAR Case 2016–G511 in all correspondence related to this case. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov* approximately two-to-three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: Ms. Johnnie McDowell, Procurement Analyst, at 202–718–6112 or *gsarpolicy@gsa.gov,* for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755 or *gsaregsec@gsa.gov*. Please cite GSAR Case 2016–G511.

SUPPLEMENTARY INFORMATION:

I. Background

GSA's cybersecurity requirements mandate that contractors protect the confidentiality, integrity, and availability of unclassified GSA information and information systems from cybersecurity vulnerabilities and threats. This rule will require contracting officers to incorporate applicable GSA cybersecurity requirements within the statement of work to ensure compliance with Federal cybersecurity requirements and implement best practices for preventing cyber incidents. These GSA requirements mandate applicable controls and standards (*e.g.,* U.S. National Institute of Standards and Technology, U.S. National Archives and Records Administration Controlled Unclassified Information standards).

In general, the proposed changes are necessary to bring long-standing GSA information system practices into the GSAR, consolidating policy into one area. Because of that consolidation, contractors may need less time and fewer resources to read and understand all the requirements relevant to their contract.

GSA is proposing to amend the GSAR to revise sections of GSAR part 511, Describing Agency Needs, part 539, Acquisition Information Technology, and other related parts; to maintain consistency with the Federal Acquisition Regulation (FAR); and to incorporate and consolidate existing cybersecurity and other information technology requirements previously implemented through various Office of the Chief Information Officer (OCIO) or agency policies.

II. Authority for This Rulemaking

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

III. Discussion and Analysis

The proposed rule changes fall into three categories: (1) Streamlining existing agency information technology (IT) security policies previously issued through the OCIO into one consolidated cybersecurity requirements policy titled CIO IT Security Procedural Guide 09–48: *Security and Privacy Requirements for IT Acquisition Efforts;* (2) consolidating existing agency non-security IT policies previously issued through the OCIO into one streamlined requirements policy titled *CIO 12–2018: IT Policy Requirements Guide*; and (3) eliminating the GSAR provision 552.239–70, *Information Technology Security Plan and Security Authorization,* and GSAR clause 552.239–71, *Security Requirements for Unclassified Information Technology Resources.* The changes to the GSAR included in this proposed rule are summarized below:

1. Streamlining IT Security Policies Into CIO IT Security Procedural Guide 09–48: Security and Privacy Requirements for IT Acquisition Efforts

GSA's internal information systems policies will be incorporated into subpart 511.171, Requirements for GSA Information Systems, requiring GSA contracting officers to:

- Incorporate the applicable sections or complete version of the CIO IT Security Procedural Guide 09–48: *Security and Privacy Requirements for IT Acquisition Efforts, and CIO 12–2018, IT Policy Requirements Guide,* into GSA solicitations (*i.e.,* Statement of Work, or equivalent); and
- Coordinate with the GSA OCIO for applicable procurements.

The new guidance will also establish a waiver process for cases where it is not effective from a cost or timing standpoint or where it is unreasonably burdensome.

The streamlining of the policy into subpart 511.171 will also replace the general instruction found in GSAR 511.102, Security of Information Data, with more detailed instruction, and

better aligns the GSAR with language in the FAR.

The streamlining of security IT policies into CIO IT Security Procedural Guide 09–48: *Security and Privacy Requirements for IT Acquisition Efforts* means the:

- Requirements outlined in the numerous OCIO security, privacy, and other information system policies are succinctly stated in a centralized policy.
- Burden on contractors for understanding and implementing the applicable requirements for GSA information systems will be significantly reduced due to the elimination of outdated policies.
- Contract administration will be simplified by consolidating the IT security requirements in one location.

2. Consolidating Non-Security IT Policies Into CIO 12–2018 IT Policy Requirements Guide

The consolidating of OCIO non-security IT policies into CIO 12–2018 IT Policy Requirements Guide, will reduce the burden for GSA contractors and ensure contractors understand and can easily comply with GSA's OCIO non-security requirements. In addition, the creation of one central acquisition policy guide covering applicable non-security information technology requirements will save time and effort for both contractors and the Government to understand and implement these requirements.

3. Eliminating GSAR Provision and Clause

The analysis of GSA's IT and relevant policies will lead to the elimination of GSAR provision 552.239–70, *Information Technology Security Plan and Security Authorization,* and GSAR clause 552.239–71, *Security Requirements for Unclassified Information Technology Resources.* The elimination of the provision and clause means duplicative, outdated, and complex requirements imposed by them will be deleted from the GSAR and incorporated into the two policies. This new approach provides a more detailed explanation of the requirements for the Government and the public.

IV. Regulatory Cost Analysis

The current GSAR coverage does not clearly include all GSA information system requirements contained in existing OCIO policies. This rule will bring long standing GSA information system practices into the GSAR and consolidate all relevant policies into one area. As a result, contractors can expend less time and fewer resources reading and understanding all the requirements relevant to their contract in order to fully comply with the requirements.

In addition, streamlining existing requirements for GSA information systems into two contractor focused policies, CIO 09–48 and CIO 12–2018, will reduce the number of requirements that contractors must implement, and the Government must validate through contract administration, saving time and effort for both contractors and the Government.

The costs and impacts to streamline and consolidate IT security and non-security policies are discussed in the analysis below. The analysis was developed in consultation with the GSA Office of the Chief Information Officer (OCIO).

Explanation of Data Source and Cost Calculation

The associated costs were calculated by analyzing data from the beta.SAM formerly known as the Federal Procurement Data System New Generation (FPDS–NG) for GSA information system contracts completed in Fiscal Years 2017–2020. The report provides information on GSA contracts and task orders valued at $25,000 or more awarded using the Product Service Code (PSC) ''D—ADP and Telecommunication Services'' from beta.SAM. According to beta.SAM, the average number of new contract actions involving access to GSA's information system was 132, of which 48 percent, or 63 entities, were small business entities. The following paragraphs detail activities which are required by this rule for contractors using GSA's internal information systems:

1. Familiarize Business Staff With CIO 09–48: Security and Privacy Requirements for IT Acquisition Efforts

GSA estimates that contractors having to access GSA's internal information systems will take 2 hours to familiarize themselves with CIO 09–48 IT Security Procedural Guide: Security and Privacy Requirements for IT Acquisition Efforts. The 2 hours estimation is based on research findings which indicate that the requirements listed in CIO IT Security Procedural Guide 09–48: Security and Privacy Requirements for IT Acquisition Efforts are: (1) Similar to those imposed by other Federal agencies, (2) required by Federal laws and guidance such as the Federal Information Security Modernization Act (FISMA), Office of Management and Budget Circulars, and NIST publications, and (3) outlined in the original CIO 09–48 policy and its supplements before the updates. The consistency with the majority of the requirements reduces the time industry will need to familiarize themselves with the updated policy. GSA estimates the regulatory cost for this part of the rule to be *$26,422* (= 2 hours × $100.08 × 132 (rounded)).[1]

2. Familiarize Business Staff With CIO 12–2018: GSA IT Policy Requirements Guide

GSA estimates that contractors having to access GSA's internal information systems will take 2 hours to familiarize themselves with CIO 12–2018 IT Policy Requirements. The 2 hours estimation is based on research findings which indicate that the non-security IT requirements are similar to those implemented by other federal agencies and was part of GSA many policy requirements in previous years. GSA estimates the total regulatory cost for this part of the rule to be *$26,422* (= 2 hours × $100.08 × 132 (rounded)).[2]

3. Develop Business Procedures To Comply With CIO 09–48

Under GSA's IT policies, new contract actions may need to develop an IT plan and supplements to comply with GSA internal information systems security requirements. GSA estimates that it will take 1 hour to fully develop the policies as required by CIO 09–48 GSA IT Security Procedural Guide: Security and Privacy Requirements for IT Acquisition Efforts. The 1 hour estimation is based on the GSA's provision that allows contractors to use GSA's policies to develop contractor-specific policies. Developing the IT plan and supplement documents will result in a total estimated cost for this part of the rule of *13,211* (= 1 hour × $100.08 × 132 (rounded)).[3]

4. Develop Business Procedures To Comply With CIO 12–2018

Under GSA's IT policies new contract actions may need to develop, at a minimum, an IT Plan which includes non-security IT. GSA estimates that it will take 1 hour to comply with CIO 12–2018 GSA IT Policy Requirements Guide. The 1 hour estimate is based on the contractor's ability to use GSA's policies to develop their own policies and procedures to comply with the requirements of FISMA as incorporated in the GSA's IT policies. The total estimated cost for this part of the rule is *$13,211* (= 1 hour × $100.08 × 132 (rounded)).[4]

[1] The $100.08 hourly is the 2021 GS rate for a GS–13 Step 5 (using the rate for the rest of the United States) burdened by 100% for fringe benefits.

[2] See footnote 1.

[3] See footnote 1.

[4] See footnote 1.

5. Recordkeeping To Comply With CIO 09–48

GSA estimates that contractors accessing GSA's internal information systems will take 1 hour to maintain records including the updating IT Plans and procedures, as needed. GSA estimated the total regulatory cost for this part of the rule to be *$13,211* (= 1 hour × $100.08 × 132 (rounded)).[5]

6. Recordkeeping To Comply With CIO 12–2018

GSA estimates that contractor's accessing GSA's internal information systems will take 1 hour to maintain records. GSA calculated the total estimated cost for this part of the rule to be *$13,211* (= 1 hour × $100.08 × 132 (rounded)).[6]

Total Regulatory Cost

The total cost of the above Cost Estimate is *$72,000* in the first year after publication.

The total cost of the above Cost Estimate in subsequent years is *$18,000* annually.

The following is a summary of the estimated total regulatory cost calculated into perpetuity at a 7-percent discount rate:

Present Value Costs	$451,536
Annualized Costs	31,608

V. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget (OMB) anticipates that this will not be a significant regulatory action and, therefore, will not be subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a ''major rule'' may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. OMB anticipates that this will not be a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

GSA does not expect this rule to have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act, at 5 U.S.C. 601, *et seq.,* because the rule will incorporate the minimum requirements consistent with applicable laws, Executive orders, and prudent business practices for securing Government information systems. In addition, the requirements are similar to those currently in use in GSA information systems solicitations and contracts, and contractors are familiar with and are currently complying with these requirements. The Initial Regulatory Flexibility Analysis (IRFA) has been performed, and is summarized as follows:

GSA is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to codify the proposed streamlined and consolidated requirements for contract actions that involve accessing GSA's information systems. GSA's policies on cybersecurity and other information technology requirements have been previously implemented through various Office of the Chief Information Officer (OCIO) policies separately disseminated to the workforce. Contractors have already been performing the majority of the requirements.

The objective of the rule is to formalize the proposed changes to the existing guidance for contracts involving GSA information systems. The rule also allows GSA to vet these existing information technology requirements to the public for comment.

The rule requires contractors to comply with applicable requirements contained in *CIO 09–48 GSA IT Security Procedural Guide: Security and Privacy Requirements for IT Acquisition Efforts* and *CIO 12–2018, IT Policy Requirements Guide*. The legal basis for the rule is 40 U.S.C. 121(c), 10 U.S.C. chapter 137, and 51 U.S.C. 20113.

The rule applies to large and small businesses, which are awarded contracts involving GSA information systems. Information generated from the beta.SAM, formerly FPDS, for Fiscal Years 2017–2020 has been used as the basis for estimating the number of contractors that may involve GSA information systems as a requirement of their contract. The analysis focused on contracts in the Product Service Code (PSC) category D-Information and Technology and Telecommunications.

Examination of this data revealed there was an average of 132 new contracts awarded in the targeted PSC for fiscal year (FY) 2017–2020. Of these contract actions, 63 or 48 percent were small businesses. The number of potential subcontractors in the selected PSC to which the requirements would flow down was calculated by using a ratio of 0.3:1, subcontractors to prime contractors (including other than small businesses), which equates to 44 annual subcontractors, of which GSA estimates that 75 percent would be small businesses (*i.e.,* 33). Therefore, the total number of small businesses, including prime contractors and subcontractors, impacted annually would be 96.

This rule will consolidate requirements currently used in solicitations and contracts involving GSA information systems and does not implement new requirements. In addition, the rule establishes a waiver process for cases where it is not cost effective or where it is unreasonably burdensome.

The rule involves reporting and recordkeeping that are currently covered under OMB Control Number 3090–0300. This rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known alternatives to this rule which would accomplish the stated objectives. This rule does not initiate or impose any new administrative or performance requirements on small business contractors because the policies are already being followed and comply with all applicable Federal laws regarding Federal IT systems. The rule will allow the policies to be codified.

The Regulatory Secretariat Division will be submitting a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat Division. GSA invites comments from small business concerns and other interested parties on the expected impact of this rule on small business entities.

GSA will also consider comments from small business entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2016–G511), in correspondence.

[5] See footnote 1.

[6] See footnote 1.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) does apply because the rule contains procedures with information collection requirements. However, these procedures do not impose additional information collection requirements to the paperwork burden previously approved under an existing OMB Control Number 3090–0300.

Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division, by calling 202–501–4755 or emailing *GSARegSec@gsa.gov.* Please cite OMB Control No. 3090–0300, Implementation of Information Technology Security Provision, in all correspondence.

List of Subjects in 48 CFR Parts 501, 502, 511, 539, 552, and 570

Government procurement.

Jeffrey A. Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy, General Services Administration.

Therefore, GSA proposes amending 48 CFR parts 501, 502, 511, 539, 552, and 570 as set forth below:

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION SYSTEM

■ 1. The authority citation for 48 CFR part 501 continues to read as follows:

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

■ 2. In section 501.106, amend table 1 by—

■ a. Adding an entry for ''511.171'' in numerical order; and

■ b. Removing the entry for ''552.239–71''.

The addition reads as follows:

501.106 OMB approval under the Paperwork Reduction Act.

* * * * *

TABLE 1 TO 501.106

GSAR reference	OMB control No.
* * * * *	
511.171	3090–0300
* * * * *	

PART 502—DEFINITIONS OF WORDS AND TERMS

■ 3. The authority citation for 48 CFR part 502 continues to read as follows:

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

■ 4. Amend section 502.101 by adding, in alphabetical order, the definitions of ''GSA Information System'' and ''Information System'' to read as follows:

502.101 Definitions.

* * * * *

GSA Information System means an information system used or operated by the U.S. General Services Administration (GSA) or by a contractor or other organization on behalf of the U.S. General Services Administration including:

(1) *Cloud information system* means information systems developed using cloud computing. Cloud computing is a model for enabling ubiquitous, convenient, on-demand network access to a shared pool of configurable computing resources (*e.g.,* networks, servers, storage, applications) that can be rapidly provisioned and released with minimal management effort or service provider interaction. Cloud information systems include Infrastructure as a Service (IaaS), Platform as a Service (PaaS), or Software as a Service (SaaS). Cloud information systems may connect to the GSA network.

(2) *External information system* means information systems that reside in contractor facilities and typically do not connect to the GSA network. External information systems may be government-owned and contractor-operated or contractor-owned and -operated on behalf of GSA or the Federal Government (when GSA is the managing agency).

(3) *Internal information system* means information systems that reside on premise in GSA facilities and may connect to the GSA network. Internal systems are operated on behalf of GSA or the Federal Government (when GSA is the managing agency).

(4) *Low Impact Software as a Service (LiSaaS) System* means cloud applications that are implemented for a limited duration, considered low impact and would cause limited harm to GSA if breached.

(5) *Mobile application* means a type of application software designed to run on a mobile device, such as a smartphone or tablet computer.

Information System means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information.

PART 511—DESCRIBING AGENCY NEEDS

■ 5. The authority citation for 48 CFR part 511 continues to read as follows:

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

■ 6. Add section 511.171 to read as follows:

511.171 Requirements for GSA Information Systems.

(a) *General Service Administration (GSA) requirements.* For GSA procurements (contracts, actions, or orders) that may involve GSA Information Systems, excluding GSA's government-wide contracts (*e.g.,* Federal Supply Schedules and Governmentwide Acquisition Contracts), the contracting officer shall incorporate the applicable sections of the following policies in the Statement of Work, or equivalent:

(1) *CIO 09–48, IT Security Procedural Guide: Security and Privacy IT Acquisition Requirements;* and

(2) *CIO 12–2018, IT Policy Requirements Guide.*

(b) *CIO (Chief Information Officer) coordination.* The contracting officer shall coordinate with GSA's information technology (IT) point of contact to identify possible CIO policy inclusions prior to publication of a Statement of Work, or equivalent. In addition, contracting officers shall review the Security Considerations section of the acquisition plan to identify if the CIO policies apply. The CIO policies and GSA IT points of contact are available on the Acquisition Portal at *https://insite.gsa.gov/itprocurement.*

(1) The contracting officer will be responsible for documenting the date of request for GSA IT coordination.

(2) If no response is received within 10 business days of the request, the contracting officer will document that fact in the contract file and proceed with the publication of the Statement of Work or equivalent.

(3) The contracting officer may grant an extension of this time period, if requested by GSA IT.

(c) *Waivers.* (1) In cases where it is not effective in terms of cost or time or where it is unreasonably burdensome to include *CIO 09–48, IT Security Procedural Guide: Security and Privacy IT Acquisition Requirements* or *CIO 12–2018, IT Policy Requirements Guide* in a contract or order, a waiver may be granted by the Acquisition Approving Official as identified in the thresholds listed at 507.103(b), the Information System Authorizing Official, and the GSA IT Approving Official.

(2) The waiver request must provide the following information—

(i) The description of the procurement and GSA Information Systems involved;

(ii) Identification of requirement requested for waiver;

(iii) Sufficient justification for why the requirement should be waived; and

(iv) Any residual risks posed by waiving the requirement.

(3) Waivers must be documented in the contract file.

(d) *Classified information.* For any procurements that may involve access to classified information or a classified information system, see subpart 504.4 for additional requirements.

PART 539—[REMOVED AND RESERVED]

■ 7. Under the authority of 40 U.S.C. 121(c), remove and reserve part 539.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. The authority citation for 48 CFR part 552 continues to read as follows:

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

Section 552.239–70 [Removed and Reserved]

■ 9. Remove and reserve section 552.239–70.

PART 570—ACQUIRING LEASEHOLD INTERESTS IN REAL PROPERTY

■ 10. The authority citation for 48 CFR part 570 continues to read as follows:

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

■ 11. In section 570.101, revise the table in paragraph (b) to read as follows:

570.101 Applicability.

* * * * *

(b) * * *

TABLE 1 TO PARAGRAPH (b)—GSAR RULES APPLICABLE TO ACQUISITIONS OF LEASEHOLD INTERESTS IN REAL PROPERTY

501	515.209–70	519.12	536.271
502	515.305	522.805	537.2
503	517.202	522.807	539
509.4	517.207	538.270	552
514.407	519.7	533	553

* * * * *

[FR Doc. 2021–18866 Filed 9–9–21; 8:45 am]

BILLING CODE 6820–61–P

Notices

Federal Register
Vol. 86, No. 173
Friday, September 10, 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

Economic Research Service

Notice of Intent To Request Renewal of a Currently Approved Information Collection

AGENCY: Economic Research Service, Agriculture (USDA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and Office of Management and Budget (OMB) implementing regulations, this notice announces the Economic Research Service's (ERS) intention to request renewal of approval for an annual information collection on supplemental food security questions in the Current Population Survey (CPS), commencing with the December 2022 survey. These data will be used: To monitor household-level food security and food insecurity in the United States; to conduct research on food security and changes in food security for population subgroups; to assess the need for, and performance of, domestic food assistance programs; to improve the measurement of food security; and to provide information to aid in public policy decision making.

DATES: Comments on this notice must be received by November 9, 2021 to be assured of consideration.

ADDRESSES: All comments should be submitted electronically to *alisha.coleman-jensen@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Alisha Coleman-Jensen at the address in the preamble. Tel. 202–694–5456.

SUPPLEMENTARY INFORMATION:

Title: Current Population Survey Food Security Supplement.

OMB Number: 0536–0043.

Expiration Date of Approval: February 28, 2022.

Type of Request: Intent To Seek Approval To Extend an Information Collection for 3 Years.

Abstract: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and OMB regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the ERS intention to request renewal of approval for an annual information collection. The U.S. Census Bureau will supplement the December CPS, beginning in 2022, with questions regarding household food shopping, use of food and nutrition assistance programs, food sufficiency, and difficulties in meeting household food needs. A similar supplement has been appended to the CPS annually since 1995. The last collection was in December 2020.

ERS is one of the 13 principal statistical agencies of the federal government and is responsible for conducting studies and evaluations of the Nation's food and nutrition assistance programs that are administered by the Food and Nutrition Service (FNS), U.S. Department of Agriculture. In Fiscal Year 2020, the Department spent about $122.1 billion to ensure access to nutritious, healthful diets for all Americans. The Food and Nutrition Service administers the 15 nutrition assistance programs of the USDA including the Supplemental Nutrition Assistance Program (SNAP), formerly called the Food Stamp Program, the National School Lunch Program, and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). These programs, which serve 1 in 4 Americans over the course of a year, represent our Nation's commitment to the principle that no one in our country should lack the food needed for an active, healthy life. These programs provide a nutrition safety net to people in need. The programs' goals are to provide needy persons with access to a more nutritious diet, to improve the eating habits of the Nation's children, and to help America's farmers by providing an outlet for the distribution of food purchased under farmer assistance authorities.

The data collected by the food security supplement will be used to monitor the prevalence of food security and the prevalence and severity of food insecurity among the Nation's households. The prevalence of these conditions as well as year-to-year trends in their prevalence will be estimated at the national level and for population subgroups. The data will also be used to monitor the amounts that households spend for food and their use of community food pantries and other community food assistance. These statistics along with research based on the data will be used to identify the causes and consequences of food insecurity, and to assess the need for, and performance of, domestic food assistance programs. The data will also be used to improve the measurement of food security and to develop measures of additional aspects and dimensions of food security. This consistent measurement of the extent and severity of food insecurity will aid in policy decision-making.

The supplemental survey instrument was developed in conjunction with food security experts nationwide as well as survey method experts within the Census Bureau and was reviewed in 2006 by the Committee on National Statistics of the National Research Council. This supplemental information will be collected by both personal visit and telephone interviews in conjunction with the regular monthly CPS interviewing. Interviews will be conducted using Computer Assisted Personal Interview (CAPI) and Computer Assisted Telephone Interview (CATI) methods.

Authority: Legislative authority for the planned data collection are 7 U.S.C. 2204a and 7 CFR 2.67. These statutes authorize the Secretary of Agriculture and the Administrator of the Economic Research Service to conduct research and collect statistics on the U.S. food system, consumers, and human nutrition.

Estimate of Burden: Public reporting burden for this data collection is estimated to average 7.2 minutes (after rounding) for each household that responds to the labor force portion of the CPS. The estimate is based on the average proportion of respondents that were asked each question in recent survey years (2014–2018), proposed updates, and typical reading and response times for the questions. The estimate assumes an 80 percent response rate to the supplement. The estimated total number of respondents is based on the largest annual sample in recent survey years.

Respondents: Individuals or households.

Estimated Total Number of Respondents: 53,901.

Estimated Total Annual Burden on Respondents: 6,479 hours. Copies of this information collection can be obtained from Alisha Coleman-Jensen at the address in the preamble.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Signed at Washington, DC.

Spiro Stefanou,

Administrator, Economic Research Service, United States Department of Agriculture.

[FR Doc. 2021–19572 Filed 9–9–21; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Intent To Issue Forest Order Closing Areas Along the Wildland Urban Interface on the Eastern Side of the Huachuca Mountains to Recreational Shooting

AGENCY: Forest Service, Agriculture, (USDA).

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, is giving notice of its intent to issue a forest order closing areas in proximity to canyon roads on the eastern side of the Huachuca Mountains in the vicinity of the City of Sierra Vista, Fort Huachuca, and the communities of Hereford and Palominas, Arizona to recreational shooting in advance of the public comment period for the proposed closure. At the end of the period of advance notice, the Forest Service will solicit public comments, as specified in this notice, on the proposed forest order.

DATES: Advance notice of the opportunity to provide public comment on a proposed recreational shooting order is being provided until September 17, 2021. Beginning on September 17, 2021, the Forest Service will accept comments on the proposed forest order for 60 days. The notice of opportunity for public comment will be posted on the Coronado National Forest web page at *https://www.fs.usda.gov/coronado/* and at the Forest Service's website at *www.fs.usda.gov/about-agency/regulations-policies.*

ADDRESSES: The proposed forest order and the justification for the forest order are available on the Coronado National Forest web page *https://www.fs.usda.gov/coronado/* and at the Forest Service's website at *www.fs.usda.gov/about-agency/regulations-policies* or can be viewed at the Sierra Vista Ranger District Office, Coronado National Forest, 4070 S Avenida Saracino, Hereford, AZ 85615. Please call ahead to ensure access: 520–378–0311.

FOR FURTHER INFORMATION CONTACT: Celeste Kinsey, District Ranger, 520–378–0311, *celeste.kinsey@usda.gov.* Individuals who use telecommunications devices for the hearing-impaired (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

I. Advance Notice and Public Comment Procedures

Section 4103 of the John D. Dingell, Jr., Conservation, Management, and Recreation Act (Pub. L. 116–9) requires that the Secretary of Agriculture, acting through the Chief of the Forest Service, provide public notice and comment before permanently or temporarily closing any National Forest System lands to hunting, fishing, or recreational shooting. Section 4103 applies to the proposed forest order closing areas in proximity to canyon roads on the eastern side of the Huachuca Mountains in the vicinity of the City of Sierra Vista, Fort Huachuca, and the communities of Hereford and Palominas, Arizona to recreational shooting, with the exception of hunting under Arizona state law. The public notice and comment process in section 4103(b)(2) requires the Secretary to publish an advance notice of intent, in the **Federal Register**, of the proposed closure in advance of the public comment period for the closure. This notice meets the requirement to publish a notice of intent in the **Federal Register** in advance of the public comment period. Following the notice of intent, section 4103(b)(2) requires an opportunity for public comment. Because the proposed forest order would permanently close areas in proximity to canyon roads on the eastern side of the Huachuca Mountains in the vicinity of the City of Sierra Vista, Fort Huachuca, and the communities of Hereford and Palominas, Arizona to recreational shooting, the public comment period must be not less than 60 days. Beginning on September 17, 2021, the Forest Service will accept public comments on the proposed order for 60 days. The notice of opportunity for public comment will be posted on the Coronado National Forest web page at *https://www.fs.usda.gov/coronado/* and at the Forest Service's website at *www.fs.usda.gov/about-agency/regulations-policies.*

Section 4103(b)(2) requires the Forest Service to respond to public comments received on the proposed order before issuing a final order, including an explanation of how any significant issues raised by the comments were resolved and, if applicable, how resolution of those issues affected the proposed order or the justification for the proposed order. The response to comments on the proposed order, justification for the final order, and the issuance of the final forest order will all be posted on the Coronado National Forest web page at *https://www.fs.usda.gov/coronado/* and at the Forest Service's website at *www.fs.usda.gov/about-agency/regulations-policies.*

II. Background and Need for Forest Order

This permanent recreational shooting closure is needed to address the potential for significant harm to human health and safety, the threat of wildfire resulting from ricocheting ammunition, as well as harm to wildlife habitat and vegetation resulting from the discharge of firearms in tight canyon areas within the Wildland Urban Interface, specifically, Ash, Lutz, Stump, Hunter, Miller, Carr, and Brown Canyons. Approximately 71,900 people live within close proximity to, or along, the National Forest boundary in the vicinity of these canyons, and this convenient access results in heavy forest use. The area that is proposed for closure to recreational shooting falls generally in multiple sections of Township 23 S., Range 20 E., and comprises all National Forest System lands within a quarter mile of all National Forest System roads (specifically, National Forest System

Roads 5731, 59, 5720, 796, 4794, 367, 56, 4915, 4790, 4789, 368, and 5736), for a total closed area of approximately 5,090 acres, which is the minimum amount of acreage necessary to protect public health and safety.

The proposed forest order, map, and the justification for the forest order are available on the Coronado National Forest web page at *https://www.fs.usda.gov/coronado/* and at the Forest Service's website at *www.fs.usda.gov/about-agency/regulations-policies.*

Dated: August 27, 2021.

Tina Johna Terrell,

Associate Deputy Chief, National Forest System.

[FR Doc. 2021–19521 Filed 9–9–21; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meetings

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of Commission public business meeting.

DATES: Friday, September 10, 2021, 12:00 p.m. EST.

ADDRESSES: Meeting to take place by telephone and is open to the public by telephone: 1–866–556–2429, Conference ID #: 9502965.

FOR FURTHER INFORMATION CONTACT: Angelia Rorison: 202–376–7700; *publicaffairs@usccr.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Government in Sunshine Act (5 U.S.C. 552b), the Commission on Civil Rights is holding a meeting to discuss the Commission's business for the month of August. This meeting is open to the public. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on Friday, September 10, 2021, is *https://www.streamtext.net/player?event=USCCR.* Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript. Schedule subject to change, for updates visit the USCCR Twitter at *www.twitter.com/usccrgov.*

Meeting Agenda

I. Approval of Agenda
II. Business Meeting
- A. Presentations from Advisory Committees to the Commission on Recent Reports/Memo Releases
- B. Discussion and Vote on Advisory Committee Appointments
- C. Vote to Amend October 2022 Business Meeting Date
- D. Discussion and Vote on Commission Statement Regarding School Safety
- E. Management and Operations

• Staff Director's Report
III. Adjourn Meeting

Dated: August 31, 2021.

Angelia Rorison,

Director of Media and Communications.

[FR Doc. 2021–19673 Filed 9–8–21; 11:15 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–142]

Certain Walk-Behind Snow Throwers and Parts Thereof From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain walk-behind snow throwers and parts thereof (snow throwers) from the People's Republic of China (China). The period of investigation (POI) is January 1, 2020, through December 31, 2020.

DATES: Applicable September 10, 2021.

FOR FURTHER INFORMATION CONTACT: Alex Cipolla or Joy Zhang, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4956 or (202) 482–1168, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on April 26, 2021.[1] On June 8, 2021, Commerce postponed the preliminary determination of this investigation and the revised deadline is now August 27, 2021.[2] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[3] A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Scope of the Investigation

The products covered by this investigation are snow throwers from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations, the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage, (*i.e.,* scope).[4] MTD Products Inc (the petitioner) commented on the scope of the investigation, requesting the addition of exclusion language to the scope as it appeared in the *Initiation Notice.*[5] Commerce is preliminarily modifying the scope language as it appeared in the *Initiation Notice* to include the requested language. *See* the revised scope in Appendix I to this notice and accompanying Preliminary Decision Memorandum for further discussion.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that

[1] *See Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation,* 86 FR 22022 (April 26, 2021) (*Initiation Notice*).

[2] *See Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation,* 86 FR 30405 (June 8, 2021).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27323 (May 19, 1997).

[5] *See* Petitioner's Letter, ''Antidumping and Countervailing Duty Investigations of Certain Walk-Behind Snow Throwers from the People's Republic of China: Scope Comments,'' dated May 10, 2021.

gives rise to a benefit to the recipient, and that the subsidy is specific.[6]

Commerce notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to Commerce's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.[7] For further information, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of snow throwers from China based on a request made by the petitioner.[8] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than January 10, 2022, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, Commerce calculated an individual estimated countervailable subsidy rate for Zhejiang Zhouli Industrial Co., Ltd. (Zhejiang Zhouli), the only individually examined exporter/producer, that was not zero, *de minimis,* or based entirely under section 776 of the Act. As a result, the estimated weighted-average rate calculated for Zhejiang Zhouli is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Rate for Non-Responsive Companies

Eight potential producers and/or exporters of snow throwers from China received but did not respond to, or refused delivery of, Commerce's Quantity and Value (Q&V) Questionnaire or Commerce's Initial Countervailing Duty Questionnaire. We find that, by not responding to the Q&V Questionnaire or Initial Questionnaire, these companies withheld requested information and significantly impeded this proceeding.[9] Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (C) of the Act, we are basing the CVD rate for these eight companies on facts otherwise available.

We further preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit responses to Commerce's Q&V or initial questionnaire, the eight companies did not cooperate to the best of their ability in this investigation.

Accordingly, we preliminarily find that an adverse inference is warranted to ensure that the eight companies will not obtain a more favorable result than had they fully complied with our request for information. For more information on the application of adverse facts available to the non-responsive companies, *see* ''Use of Facts Otherwise Available and Adverse Inferences'' in the Preliminary Determination Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Zhejiang Zhouli Industrial Co	12.86
All-Others	12.86
Changzhou Globe Tools Co., Ltd. Co., Ltd	130.44
Nanjing Chevron Industry Co., Ltd	130.44
Ningbo Daye Garden Machinery Co., Ltd	130.44
Ningbo Joyo Garden Tools Co., Ltd	130.44
Ningbo Scojet Import & Export Trading	130.44
TIYA International Co., Ltd	130.44
Weima Agricultural Machinery Co., Ltd	130.44
Zhejiang Yat Electrical Appliance Co	130.44

Suspension of Liquidation

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination. Normally, Commerce verifies information using standard procedures, including an on-site examination of original accounting, financial, and sales documentation. However, due to current travel restrictions in response to the global COVID–19 pandemic, Commerce is unable to conduct on-site verification in this investigation. Accordingly, we intend to verify the information relied upon in making the final determination through alternative means in lieu of an on-site verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.[10] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary

[6] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; *see also* section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

[7] *See* sections 776(a) and (b) of the Act.

[8] *See* Petitioner's Letter, ''Countervailing Duty Investigation of Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Request to Align Final Countervailing Duty Determination with Final Antidumping Duty Determination,'' dated August 6, 2021.

[9] These companies are Changzhou Globe Tools Co., Ltd., Ningbo Joyo Garden Tools Co., Ltd., Nanjing Chervon Industry Co., Ltd., Ningbo Daye Garden Machinery Co., Ltd., Ningbo Scojet Import & Export Trading Co., Ltd., TIYA International Co., Ltd., Weima Agricultural Machinery Co., Ltd., and Zhejiang Yat Electrical Appliance Co.

[10] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

information, until further notice.[11] The deadlines for submitting case and rebuttal briefs on scope issues will be established as part of the preliminary determination in the companion AD investigation. Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.[12] Parties should confirm by telephone the date and time of the hearing two days before the scheduled date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act, and 19 CFR 351.205(c).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (collectively, *Temporary Rule*).

[12] *See* 19 CFR 351.310(d).

Dated: August 27, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation consists of gas-powered, walk-behind snow throwers (also known as snow blowers), which are snow moving machines that are powered by internal combustion engines and primarily pedestrian-controlled. The scope of the investigation covers certain snow throwers (also known as snow blowers), whether self-propelled or non-self-propelled, whether finished or unfinished, whether assembled or unassembled, and whether containing any additional features that provide for functions in addition to snow throwing. Subject merchandise also includes finished and unfinished snow throwers that are further processed in a third country or in the United States, including, but not limited to, assembly or any other processing that would not otherwise remove the merchandise from the scope of this investigation if performed in the country of manufacture of the in-scope snow throwers.

Walk-behind snow throwers subject to the scope of this investigation are powered by internal combustion engines which are typically spark ignition, single or multiple cylinder, and air-cooled with power take off shafts.

For the purposes of this investigation, an unfinished and/or unassembled snow thrower means at a minimum, a subassembly comprised of an engine, auger housing (*i.e.,* intake frame), and an auger (or ''auger paddle'') packaged or imported together. An intake frame is the portion of the snow thrower—typically of aluminum or steel that houses and protects an operator from a rotating auger and is the intake point for the snow. Importation of the subassembly whether or not accompanied by, or attached to, additional components including, but not limited to, handle(s), impeller(s), chute(s), track tread(s), or wheel(s) constitutes an unfinished snow thrower for purposes of this investigation. The inclusion in a third country of any components other than the snow thrower sub-assembly does not remove the snow thrower from the scope. A snow thrower is within the scope of this investigation regardless of the origin of its engine.

Specifically excluded is merchandise covered by the scope of the antidumping and countervailing duty orders on certain vertical shaft engines between 225cc and 999cc, and parts thereof from the People's Republic of China. *See Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof, from the People's Republic of China: Amended Final Antidumping Duty Determination and Antidumping Duty Order,* 86 FR 12623 (March 4, 2021) and *Certain Vertical Shaft Engines Between 225cc and 999cc, and Parts Thereof from the People's Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination,* 86 FR 12619 (March 4, 2021).

Also specifically excluded is merchandise covered by the scope of the antidumping and countervailing duty orders on certain vertical shaft engines between 99cc and Up to 225cc, and Parts Thereof From the People's Republic of China. *See Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof From the People's Republic of China: Antidumping and Countervailing Duty Orders,* 86 FR 023675 (May 4, 2021).

The snow throwers subject to this investigation are typically entered under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8430.20.0060. Certain parts of snow throwers subject to this investigation may also enter under HTSUS 8431.49.9095. The HTSUS subheadings are provided for convenience and customs purposes only, and the written description of the merchandise under investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Injury Test
VI. Diversification of China's Economy
VII. Use of Facts Otherwise Available and Adverse Inferences
VIII. Subsidies Valuation
IX. Benchmarks and Interest Rates
X. Analysis of Programs
XI. Recommendation

[FR Doc. 2021–19627 Filed 9–9–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Partial Rescission of Antidumping Duty Administrative Review; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that NTSF Seafoods Joint Stock Company (NTSF), a producer and exporter of frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam) did not make sales of subject merchandise at prices below normal value (NV) during the period of review (POR) August 1, 2019, through July 31, 2020. Commerce also preliminarily determines that it is appropriate to apply facts available, with adverse inferences (AFA) to East Sea Seafoods

Joint Stock Company (ESS), an exporter of fish fillets from Vietnam. We also preliminarily determine that one additional company, Green Farms Seafood Joint Stock Company (Green Farms), is eligible for separate rate status, 32 companies did not establish eligibility for a separate rate and are part of the Vietnam-wide entity, and 15 companies had no shipments during the POR. Finally, we are rescinding this review with respect to 13 companies. We invite interested parties to comment on these preliminary results.

DATES: Applicable September 10, 2021.

FOR FURTHER INFORMATION CONTACT: Javier Barrientos or Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2243 and 202–482–0413, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 2020, Commerce published in the **Federal Register** the notice of initiation of an administrative review of the antidumping duty (AD) order on fish fillets from Vietnam with respect to 63 companies.[1] On January 8, 2021, we selected the two largest exporters, ESS and NTSF, as mandatory respondents.[2] On April 5, 2021, Commerce extended the deadline for these preliminary results by 120 days, to August 31, 2021.[3]

For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[4] A list of topics included in the Preliminary Decision Memorandum is included as an Appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Scope of the Order

The products covered by this order are fish fillets from Vietnam. For a full description of the scope of the order, *see* the Preliminary Decision Memorandum.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation. As noted above, all interested parties timely withdrew their requests for review for 13 companies. Accordingly, Commerce is rescinding this review with respect to these 13 entities, in accordance with 19 CFR 351.213(d)(1).[5] The review will continue with respect to the other firms for which a review was requested and initiated.

Preliminary Determination of No Shipments

Based on an analysis of information from U.S. Customs and Border Protection (CBP) and the letters filed by 15 companies certifying no shipments, Commerce preliminarily determines that these companies had no shipments during the POR.[6] For additional information regarding this finding, *see* the Preliminary Decision Memorandum.

Consistent with our assessment practice in non-market economy (NME) administrative reviews, Commerce is not rescinding this review for these 15 companies, but intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.[7]

Separate Rates

Commerce preliminarily determines that information placed on the record by mandatory respondents ESS and NTSF, and the separate rate applicant Green Farms, demonstrates that these companies are entitled to separate rate status. The remaining 32 companies subject to this review have not established eligibility for a separate rate and are, therefore, considered to be part of the Vietnam-wide entity for these preliminary results.[8] For additional information, *see* the Preliminary Decision Memorandum.

Vietnam-Wide Entity

The Vietnam-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity, the entity is not under review, and the entity's rate is not subject to change.[9]

Other than the companies discussed above—*i.e.,* those that received separate rate status, those with no shipments during the POR, or those for which this review has been rescinded—Commerce considers all other companies under review to be part of the Vietnam-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2) of the Act. We have calculated constructed export price in accordance with section 772 of the Act. Because Vietnam is an NME country within the meaning of section 771(18) of the Act, we have calculated NV in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Use of Adverse Facts Available

Pursuant to sections 776(a) and (b) of the Act, Commerce has preliminarily assigned ESS a dumping margin of $3.87/kg based on AFA. ESS ceased participating in this review and did not provide information requested by Commerce; accordingly, we find that necessary information is not available on the record, ESS failed to provide the requested information in the form and manner requested and significantly impeded the proceeding, pursuant to section 776(a) of the Act. Additionally, we find that ESS had the necessary information in its possession and elected not to submit the information and, thus, ESS did not act to the best of its ability in responding to Commerce's

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 63081 (October 6, 2020).

[2] *See* Memorandum, ''Respondent Selection,'' dated January 8, 2021. For purposes of this figure, we note that eight companies are part of a single entity known as the ''Hung Vuong Group,'' three companies form part of a single entity known as ''QVD Aquaculture Joint Stock Company,'' and three companies form part of a single entity known as ''Vinh Hoan Corporation.''

[3] *See* Memorandum, ''Extension of Deadline for Preliminary Results of the 2019–2020 Antidumping Duty Administrative Review,'' dated April 5, 2021.

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam; 2019–2020,'' dated August 31, 2021 (Preliminary Decision Memorandum).

[5] *See* Appendix II for a list of companies for which we are rescinding this review.

[6] *See* Appendix III for a complete list of companies with no shipments during the POR.

[7] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694, 65694–95 (October 24, 2011) and the ''Assessment Rates'' section, below.

[8] *See* Appendix IV for a complete list of companies not eligible for a separate rate.

[9] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

information request by the applicable deadline, pursuant to section 776(b) of the Act. For further information, *see* ''Application of Facts Available and Use of Adverse Inferences'' in the Preliminary Decision Memorandum.

Preliminary Results of Review

Commerce preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2019, through July 31, 2020:

Exporter/producer	Weighted-average dumping margin (dollars per kilogram)
NTSF Seafoods Joint Stock Company	$0.00/kg
East Sea Seafoods Joint Stock Company	*$3.87/kg
Review-Specific Rate Applicable to the Following Company: [10]	
Green Farms Seafood Joint Stock Company	1.94/kg

*This rate was determined wholly under section 776(d) of the Act.

Disclosure and Public Comment

Commerce intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of these preliminary results, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Case and rebuttal briefs should be filed using ACCESS.[12] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[13]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce will announce the date and time of the hearing. Parties should confirm by telephone the date and time of the hearing two days before the scheduled date.

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of this administrative review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries.[14]

If NTSF's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, Commerce will calculate importer-specific (or customer-specific) assessment rates for NTSF, in accordance with 19 CFR 351.212(b)(1). Specifically, Commerce intends to calculate an importer-specific (or customer-specific) per-unit assessment rate by dividing the amount of dumping for reviewed sales to the importer or customer by the total sales quantity associated with those transactions. Where either NTSF's weighted-average dumping margin is zero or *de minimis,* or an importer-specific or customer-specific *ad valorem* assessment rate is zero or *de minimis,* we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[15] For any NTSF entries that were not reported in the U.S. sales databases submitted by NTSF, Commerce will instruct CBP to liquidate such entries at the Vietnam-wide rate.

If Commerce continues to determine ESS's margin on the basis of AFA in the final results of this review, Commerce will instruct, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise at the rate of $3.87 per kilogram.

For any respondent that was not selected for individual examination in this administrative review, but which qualified for a separate rate, *i.e.,* Green Farms, we will instruct, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise at the rate of $1.94 per kilogram.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For the companies listed above that have a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis,* then cash deposit rate will be zero); (2) for previously-examined Vietnamese and non-Vietnamese exporters not listed above that at the time of entry are eligible for a separate rate based on a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all Vietnamese exporters of subject merchandise that have not been found to be entitled to a separate rate at the time of entry, the cash deposit rate will be that for the Vietnam-wide entity (*i.e.,* $2.39 per kilogram); and (4) for all non-Vietnamese exporters of subject merchandise which at the time of entry are not eligible for a separate rate, the cash deposit rate will be the rate applicable to the Vietnamese exporter that supplied that non-Vietnamese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement

[10] This rate is based on an average of the rates assigned to ESS and NTSF, pursuant to section 735(c)(5)(B) of the Act.

[11] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[12] *See* 19 CFR 351.303.

[13] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2021).

[14] *See* 19 CFR 351.212(b).

[15] *See* 19 CFR 351.106(c)(2).

could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

We are issuing and publishing the preliminary results of this review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: August 31, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Standing
V. Partial Rescission of Review
VI. Preliminary Determination of No Shipments
VII. Application of Facts Available and Adverse Inferences
VIII. Discussion of the Methodology
IX. Recommendation

Appendix II—Companies for Which We Are Rescinding the Review

1. Ben Tre Aquaproduct Import and Export Joint Stock Company (aka Bentre Aquaproduct)
2. Bien Dong Hau Giang Seafood Joint Stock Company (aka Bien Dong HG or Bien Dong Hau Giang Seafood Joint Stock Co.)
3. Bien Dong Seafood Company Ltd. (aka Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., or Bien Dong Seafood Limited Liability Company)
4. Fatifish Company Limited (aka FATIFISH or FATIFISHCO)
5. GODACO Seafood Joint Stock Company (aka GODACO, GODACO Seafood, GODACO_SEAFOOD, or GODACO Seafood J.S.C.)
6. Golden Quality Seafood Corporation (aka Golden Quality, GoldenQuality, or GoldenQuality Seafood Corporation)
7. Hung Vuong-Mien Tay Aquaculture Corporation (aka HVMT or Hung Vuong Mien Tay Aquaculture Joint Stock Company)
8. Hung Vuong Seafood Joint Stock Company
9. International Development & Investment Corporation (aka IDI or International Development and Investment Corporation)
10. Nha Trang Seafoods, Inc. (aka Nha Trang Seafoods, Nha Trang Seafoods-F89, or Nha Trang Seaproduct Company)
11. Seavina Joint Stock Company (aka Seavina)
12. Thanh Binh Dong Thap One Member Company Limited (aka Thanh Binh Dong Thap or Thanh Binh Dong Thap Ltd.)
13. Vinh Hoan Corporation (aka Vinh Hoan, Vinh Hoan Co., or Vinh Hoan Corp.) [16]

[16] The Vinh Hoan Corporation is a single entity that also includes Van Duc Food Export Joint Stock Company and Van Duc Tien Giang Food Export Company.

Appendix III—Companies With No Shipments During the POR

1. Ben Tre Forestry and Aquaproduct Import-Export Joint Stock Company (aka Faquimex, or Ben Tre)
2. C.P. Vietnam Corporation
3. Cafatex Corporation (aka Cafatex)
4. Cantho Import-Export Seafood Joint Stock Company (aka CASEAMEX, Cantho Import Export Seafood Joint Stock Company, Cantho Import-Export Joint Stock Company, Can Tho Import Export Seafood Joint Stock Company, Can Tho Import-Export Seafood Joint Stock Company, or Can Tho Import-Export Joint Stock Company)
5. Colorado Boxed Beef Company (aka CBBC)
6. Dai Thanh Seafoods Company Limited (aka DATHACO)
7. The Great Fish Company LLC
8. Hai Huong Seafood Joint Stock Company (aka HHFish, HH Fish, or Hai Huong Seafood)
9. Hung Vuong Group [17]
10. Nam Viet Corporation (aka NAVICO)
11. PREFCO Distribution LLC
12. QMC Foods, Inc.
13. Riptide Foods
14. QVD Food Company Ltd. (aka QVD, QVD Food Co., Ltd., or QVD Aquaculture) [18]
15. Vinh Quang Fisheries Corporation (aka Vinh Quang, Vinh Quang Fisheries Corp., Vinh Quang Fisheries Joint Stock Company, or Vinh Quang Fisheries Co., Ltd.)

Appendix IV—Companies Not Eligible for a Separate Rate

1. Anchor Seafood Corp.
2. An Phat Import-Export Seafood Co., Ltd. (aka An Phat Seafood Co. Ltd. or An Phat Seafood Co., Ltd.)
3. Anvifish Joint Stock Company (aka Anvifish, Anvifish JSC, or Anvifish Co., Ltd.)
4. Basa Joint Stock Company (aka BASACO)
5. Binh Dinh Import Export Company (aka Binh Dinh)
6. Cadovimex II Seafood Import-Export and Processing Joint Stock Company (aka Cadovimex II)
7. Can Tho Animal Fishery Products Processing Export Enterprise
8. Cuu Long Fish Import-Export Corporation (aka CL Panga Fish)
9. Cuu Long Fish Joint Stock Company (aka CL-Fish, CL–FISH CORP, or Cuu Long Fish Joint Stock Company)
10. GF Seafood Corp.
11. Go Dang An Hiep One Member Limited Company
12. Go Dang Ben Tre One Member Limited Liability Company
13. Hoa Phat Seafood Import-Export and Processing J.S.C. (aka HOPAFISH, Hoa Phat Seafood Import-Export and Processing Joint Stock Company, Hoa Phat Seafood Import-Export and Processing JSC)
14. Hoang Long Seafood Processing Company Limited (aka HLS)
15. Indian Ocean One Member Company Limited (aka Indian Ocean Co., Ltd.)
16. Lian Heng Investment Co., Ltd. (aka Lian Heng or Lian Heng Investment)
17. Lian Heng Trading Co., Ltd. (aka Lian Heng or Lian Heng Trading)
18. Nam Phuong Seafood Co., Ltd. (aka Nam Phuong, or NAFISHCO)
19. New Food Import, Inc.
20. NTACO Corporation (aka NTACO)
21. Seafood Joint Stock Company No. 4 (aka SEAPRIEXCO No. 4)
22. Seafood Joint Stock Company No. 4 Branch Dongtam Fisheries Processing Company (aka DOTASEAFOODCO or Seafood Joint Stock Company No. 4—Branch Dong Tam Fisheries Processing Company)
23. Southern Fishery Industries Company, Ltd. (aka South Vina)
24. Thanh Hung Co., Ltd. (aka Thanh Hung Frozen Seafood Processing Import Export Co., Ltd.)
25. Thien Ma Seafood Co., Ltd (aka THIMACO)
26. Thuan An Production Trading and Service Co., Ltd. (aka TAFISHCO)
27. To Chau Joint Stock Company (aka TOCHAU, TOCHAU JSC, or TOCHAU Joint Stock Company)
28. Viet Hai Seafood Company Limited (aka Viet Hai)
29. Viet Phu Foods and Fish Corporation (aka Vietphu)
30. Viet Phu Foods & Fish Co., Ltd.
31. Vietnam Seaproducts Joint Stock Company (aka Seaprodex or Vietnam Seafood Corporation—Joint Stock Company)
32. Vinh Long Import-Export Company (aka Vinh Long)

[17] Hung Vuong Group is a single entity comprised of the following individual companies: (1) An Giang Fisheries Import and Export Joint Stock Company; (2)Asia Pangasius Company Limited; (3) Hung Vuong Ben Tre Seafood Processing Company Limited; (4) Europe Joint Stock Company; (5) Hung Vuong-Sa Dec Co., Ltd.; (6) Hung Vuong-Vinh Long Co. Ltd.; (7) Hung Vuong Corporation; and (8) Hung Vuong Mascato Company Limited.

[18] QVD is a single entity that also includes QVD Dong Thap Food Co., Ltd. and Thuan Hung Co., Ltd.

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–017]

Certain Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review Rescission in Part, and Intent To Rescind in Part; 2019

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers/exporters of

certain passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (China) during the period of review (POR), January 1, 2019, through December 31, 2019. In addition, we are rescinding the review with respect to 19 companies, and announcing our preliminary intent to rescind this review with respect to eight other companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable September 10, 2021.

FOR FURTHER INFORMATION CONTACT: Michael Romani or Richard Roberts, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202–482–5075 or 202–482–2631, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 2020, Commerce published in the **Federal Register** the notice of initiation of an administrative review of the CVD Order on passenger tires from China.[1] On April 14, 2021, Commerce extended the deadline for the preliminary results of this review by 120 days to August 31, 2021.[2]

Scope of the Order [3]

The products covered by the *Order* are certain passenger vehicle and light truck tires from China. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.[4]

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation. Commerce received timely-filed withdrawal requests with respect to the following companies: Giti Radial Tire (Anhui) Company Ltd.; Giti Tire Global Trading Pte. Ltd.; Giti Tire (Fujian) Company Ltd.; Giti Tire (Hualin) Company Ltd.; Haohua Orient International Trade Ltd.; Qingdao Lakesea Tyre Co., Ltd.; Riversun Industry Limited; Safe & Well (HK) International Trading Limited; Sailun Group (HongKong) Co., Limited., formerly known as Sailun Jinyu Group (Hong Kong) Co., Limited; Sailun Group Co., Ltd., formerly known as Sailun Jinyu Group Co., Ltd.; Sailun Tire Americas Inc., formerly known as SJI North America Inc.; Sailun Tire International Corp; Shandong Guofeng Rubber Plastics Co., Ltd.; Shandong Linglong Tyre Co., Ltd.; Shandong New Continent Tire Co., Ltd.; Shandong Wanda Boto Tyre Co., Ltd.; Shouguang Firemax Tyre Co., Ltd.; Windforce Tyre Co., Limited; and Zhaoqing Junhong Co., Ltd., pursuant to 19 CFR 351.213(d)(1). Because the withdrawal requests were timely filed, and no other parties requested a review of these companies, in accordance with 19 CFR 351.213(d)(1), Commerce is rescinding this review of the *Order* with respect to these 19 companies noted above.

Intent To Rescind Administrative Review, in Part

It is Commerce's practice is to rescind an administrative review of a CVD order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.[5] Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate calculated for the review period.[6] Therefore, for an administrative review of a company to be conducted, there must be a reviewable, suspended entry that Commerce can instruct U.S. Customs and Border Protection (CBP) to liquidate at the calculated CVD assessment rate calculated for the review period.[7]

According to the CBP import data, eight companies subject to this review did not have reviewable entries of subject merchandise during the POR for which liquidation is suspended.[8] Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we intend to rescind this administrative review with respect to these eight companies, in accordance with 19 CFR 351.213(d)(3).

Methodology

Commerce is conducting this administrative review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.,* a financial contribution by an ''authority'' that confers a benefit to the recipient, and that the subsidy is specific.[9] For a full description of the methodology underlying our conclusions, including our reliance, in part, on adverse facts available pursuant to sections 776(a) and (b) of the Act, *see* the Preliminary Decision Memorandum.

The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.* A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix I to this notice.

Preliminary Rate for Non-Selected Companies Under Review

There are three companies for which a review was requested and not rescinded, and which were not selected for individual examination as mandatory respondents or found to be cross-owned with a mandatory respondent. The statute and Commerce's regulations do not directly address the establishment of rates to be applied to companies not selected for individual examination where Commerce limits its examination in an administrative review pursuant to section 777A(e)(2) of the Act. However, Commerce normally determines the

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 63081 (October 6, 2020).

[2] *See* Memorandum, ''Certain Passenger Vehicles and Light Truck Tires from the People's Republic of China: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review; 2019,'' dated April 14, 2021.

[3] *See Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 47902 (August 10, 2015).

[4] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the 2019 Countervailing Duty Administrative Review of Certain Passenger Vehicles and Light Truck Tires from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[5] *See, e.g., Lightweight Thermal Paper from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review; 2015,* 82 FR 14349 (March 20, 2017); *see also Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2017,* 84 FR 14650 (April 11, 2019).

[6] *See* 19 CFR 351.212(b)(2).

[7] *See* 19 CFR 351.213(d)(3).

[8] These companies are: Hankook Tire China Co., Ltd.; Prinx Chengshan (Shandong) Tire Company Ltd.; Qingdao Fullrun Tyre Tech Corp., Ltd.; Qingdao Honghuasheng Trade Co., Ltd; Qingdao Kapsen Trade Co.; Shandong Habilead Rubber Co., Ltd.; Shandong Hongsheng Rubber Technology Co., Ltd.; and Shandong Qilun Rubber Co., Ltd.

[9] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

rates for non-selected companies in reviews in a manner that is consistent with section 705(c)(5) of the Act, which provides the basis for calculating the all-others rate in an investigation.

Section 705(c)(5)(A)(i) of the Act instructs Commerce, as a general rule, to calculate an all-others rate equal to the weighted average of the countervailable subsidy rates established for exporters and/or producers individually examined, excluding any rates that are zero, *de minimis,* or based entirely on facts available. In this review, only one mandatory respondent, Sumitomo Rubber (Hunan) Co., Ltd. (Sumitomo Rubber), had a rate which was not zero, *de minimis,* or based entirely on facts available. Thus, for the companies for which a review was requested that were not selected as mandatory company respondents and for which Commerce is not rescinding the review, Commerce is basing the subsidy rate on the rate calculated for Sumitomo Rubber.

Preliminary Results of the Review

We preliminarily determine the following net countervailable subsidy rates for the period January 1, 2019, through December 31, 2019:

Producer/exporter	Subsidy rate (percent)
Sumitomo Rubber (Hunan) Co., Ltd. and its cross-owned affiliates [10]	25.49
Triangle Tyre Co., Ltd	124.92
Review-Specific Average Rate Applicable to the Following Companies [11]	
Jiangsu Hankook Tire Co., Ltd	25.49
Qingdao Landwinner Tyre Co., Ltd	25.49
Shandong Province Sanli Tire Manufacture Co., Ltd	25.49

Disclosure and Public Comment

We will disclose to parties in this review, the calculations performed for these preliminary results within five days of the date of publication of this notice.[12] Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.[13] Rebuttals to case briefs may be filed no later than seven days after the case briefs are filed, and all rebuttal comments must be limited to comments raised in the case briefs.[14] Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.[15]

Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be determined.

Unless extended, we intend to issue the final results of this administrative review, which will include the results of our analysis of the issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rates

In accordance with 19 CFR 351.221(b)(4)(i), we preliminarily assigned subsidy rates in the amounts shown above for the producer/exporters shown above. Upon completion of the administrative review, consistent with section 751(a)(1) of the Act and 19 CFR 351.212(b)(2), Commerce shall determine, and CBP shall assess, countervailing duties on all appropriate entries covered by this review. For the companies for which this review is rescinded, Commerce will instruct CBP to assess countervailing duties on all appropriate entries at a rate equal to the cash deposit of estimated countervailing duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period January 1, 2019, through December 31, 2019, in accordance with 19 CFR 351.212(c)(l)(i). For the companies remaining in the review, 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

In accordance with section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amounts calculated in the final results of this review for the respective companies listed above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, CBP will continue to collect cash deposits of estimated countervailing duties at the all-others rate or the most recent company-specific rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Interested Parties

These preliminary results are issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

[10] Commerce finds the following companies to be cross-owned with Sumitomo Rubber (Hunan) Co., Ltd.: Sumitomo Rubber (China) Co., Ltd. and Sumitomo Rubber (Changshu) Co. Ltd.

[11] This rate is based on the rates for the respondents that were selected for individual review, excluding rates that are zero, *de minimis,* or based entirely on facts available. *See* section 735(c)(5)(A) of the Act.

[12] *See* 19 CFR 351.224(b).

[13] *See* 19 CFR 351.309(c).

[14] *See* 19 CFR 351.309(d).

[15] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 29615 (May 18, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020).

Dated: August 31, 2021.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Non-Selected Companies Under Review
V. Diversification of China's Economy
VI. Non-Selected Company Rate
VII. Partial Rescission of the Administrative Review
VIII. Intent To Rescind Administrative Review, in Part
IX. Use of Facts Otherwise Available and Application of Adverse Inferences
X. Interest Rate Benchmarks, Discount Rates, Input and Electricity Benchmarks
XI. Subsidies Valuation
XII. Analysis of Programs
XIII. Recommendation

[FR Doc. 2021–19522 Filed 9–9–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB412]

Marine Mammals and Endangered Species

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

ACTION: Notice; issuance of permits.

SUMMARY: Notice is hereby given that permits have been issued to the following entities under the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA), as applicable.

ADDRESSES: The permits and related documents are available for review upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D. (Permit No. 25761), Courtney Smith, Ph.D. (Permit No. 25508) and Carrie Hubard (Permit No. 23966); at (301) 427–8401.

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** on the dates listed below that requests for a permit had been submitted by the below-named applicants. To locate the **Federal Register** notice that announced our receipt of the application and a complete description of the activities, go to *www.federalregister.gov* and search on the permit number provided in Table 1 below.

TABLE 1—ISSUED PERMITS

Permit No.	RTID	Applicant	Previous **Federal Register** notice	Issuance date
23966	0648–XA246	Christopher Cilfone, Kohola Film Project; 61 Loa Pl., Lahaina, Hawaii 96761.	85 FR 42361; July 14, 2020.	August 13, 2021.
25761	0648–XB204	Earthscape Productions, Ltd., St Stephens Avenue, Bristol, BS1 1YL, United Kingdom (Responsible Party: Tina Razdan).	86 FR 35072; July 1, 2021.	August 18, 2021.
25508	0648–XB173	Sea World LLC, 6240 Sea Harbor Drive, Orlando, Florida, 32821 (Responsible Party: Christopher Dold, DVM).	86 FR 33233; June 24, 2021.	August 31, 2021.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, as applicable, issuance of these permits was based on a finding that such permits: (1) were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in Section 2 of the ESA.

Authority: The requested permits have been issued under the MMPA of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the ESA of 1973, as amended (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), as applicable.

Dated: September 7, 2021.

Julia Marie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–19550 Filed 9–9–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB368]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Berth III New Mooring Dolphins Project in Ketchikan, Alaska

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: NMFS has received a request from the City of Ketchikan, Alaska (COK) for the reissuance of a previously issued incidental harassment authorization (IHA) with the only change being effective dates. The initial IHA authorized take of nine species of marine mammals, by Level A and Level B harassment, incidental to construction associated with the Berth III New Mooring Dolphins Project in Ketchikan, AK. The project has been delayed by one year and none of the work covered in the initial IHA has been conducted. The initial IHA was effective from October 1, 2021, through September 30, 2022. The COK has requested reissuance with new effective dates of October 1, 2022, through September 30, 2023. The scope of the activities and anticipated effects remain the same, authorized take numbers are not changed, and the required mitigation, monitoring, and reporting remains the same as included in the initial IHA. NMFS is, therefore, issuing a second identical IHA to cover the incidental take analyzed and authorized in the initial IHA.

DATES: This authorization is effective from October 1, 2022, through September 30, 2023.

ADDRESSES: An electronic copy of the final 2021 IHA previously issued to the

COK, the Navy's application, and the **Federal Register** notices proposing and issuing the initial IHA may be obtained by visiting *https://www.fisheries.noaa.gov/action/incidental-take-authorization-berth-iii-new-mooring-dolphins-project-ketchikan-alaska.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Rob Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act (MMPA; 16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On March 3, 2021, NMFS published final notice of our issuance of an IHA authorizing take of marine mammals incidental to the Berth III New Mooring Dolphins Project (86 FR 12411). The effective dates of that IHA were October 1, 2021, through September 30, 2022. On July 21, 2021, the COK informed NMFS that the project would be delayed by one year. None of the work identified in the initial IHA (*e.g.,* pile driving and removal) has occurred. The COK submitted a request that we reissue an identical IHA that would be effective from October 1, 2022, through September 30, 2023, in order to conduct the construction work that was analyzed and authorized through the previously issued IHA. Therefore, reissuance of the IHA is appropriate.

Summary of Specified Activity and Anticipated Impacts

The planned activities (including mitigation, monitoring, and reporting), authorized incidental take, and anticipated impacts on the affected stocks are the same as those analyzed and authorized through the previously issued IHA.

The purpose of the COK's Berth III construction project is to accommodate a new fleet of large cruise ships (*i.e.,* Bliss class) and to meet the needs of the growing cruise ship industry and its vessels in Southeast Alaska. The location, timing, and nature of the activities, including the types of equipment planned for use, are identical to those described in the initial IHA. The mitigation and monitoring are also as prescribed in the initial IHA.

Species that are expected to be taken by the planned activity include humpback whale (*Megaptera novaeangliae*), minke whale (*Balaenoptera acutorostrata*), gray whale (*Eschrichtius robustus*), killer whale (*Orcinus orca*), Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), harbor seal (*Phoca vitulina*), and Steller sea lion (*Eumetopias jubatus*). A description of the methods and inputs used to estimate take anticipated to occur and, ultimately, the take that was authorized is found in the previous documents referenced above. The data inputs and methods of estimating take are identical to those used in the initial IHA. NMFS has reviewed recent Stock Assessment Reports, information on relevant Unusual Mortality Events, and recent scientific literature, and determined that no new information affects our original analysis of impacts or take estimate under the initial IHA.

We refer to the documents related to the previously issued IHA, which include the **Federal Register** notice of the issuance of the initial 2021 IHA for the COK's construction work (86 FR 12411; March 3, 2021), the COK's application, the **Federal Register** notice of the proposed IHA (85 FR 71612; November 11, 2021), and all associated references and documents.

Determinations

The COK will conduct activities as analyzed in the initial 2021 IHA. As described above, the number of authorized takes of the same species and stocks of marine mammals are identical to the numbers that were found to meet the negligible impact and small numbers standards and authorized under the initial IHA and no new information has emerged that would change those findings. The reissued 2022 IHA includes identical required mitigation, monitoring, and reporting measures as the initial IHA, and there is no new information suggesting that our analysis or findings should change.

Based on the information contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; and (4) the Navy's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action with respect to environmental consequences on the human environment.

Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review. This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we

have not identified any extraordinary circumstances that would preclude this categorical exclusion.

Endangered Species Act (ESA)

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the Alaska Regional Office, whenever we propose to authorize take for endangered or threatened species.

The effects of this proposed Federal action were adequately analyzed in NMFS' Biological Opinion for the Berth III New Mooring Dolphins Project, dated February 11, 2021, which concluded that the take NMFS proposed to authorize through this IHA would not jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify any designated critical habitat.

Authorization

NMFS has issued an IHA to the COK for in-water construction activities associated with the specified activity from October 1, 2022, through September 30, 2023. All previously described mitigation, monitoring, and reporting requirements from the initial 2021 IHA are incorporated.

Dated: September 3, 2021.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–19520 Filed 9–9–21; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* October 10, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following service(s) are proposed for deletion from the Procurement List:

Service(s)

Service Type: Janitorial/Custodial
Mandatory for: Port Angeles Federal Building: 138 W First Street NULL Port Angeles, WA
Contracting Activity: PUBLIC BUILDINGS SERVICE, GSA/PBS

Service Type: Janitorial Service
Mandatory for: US Coast Guard, C3CEN–R21-Juneau Detachment, Douglas, AK 100 Savikko Douglas, AK
Designated Source of Supply: REACH, Inc., Juneau, AK
Contracting Activity: U.S. COAST GUARD, BASE KETCHIKAN(00035)

Service Type: Custodial Service
Mandatory for: White Mountain National Forest, Saco Ranger Administrative Site, Conway, NH Routes 112, 33 Kancamagus Highway, Conway, NH
Designated Source of Supply: Northern New England Employment Services, Portland, ME
Contracting Activity: FOREST SERVICE, ALLEGHENY NATIONAL FOREST

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2021–19561 Filed 9–9–21; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action adds service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities and deletes product(s) from the Procurement List previously furnished by such agencies.

DATES:

Date added to the Procurement List: September 29, 2021.

Date deleted from the Procurement List: October 10, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 6/18/2021 the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping, or other compliance requirements for small entities other than the small organizations that will furnish the service(s) to the Government.

2. The action will result in authorizing small entities to furnish the service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service(s) are added to the Procurement List:

Service(s)

Service Type: Document Management Service
Mandatory for: National Geospatial-Intelligence Agency, Records Management Program, St Louis, MO
Designated Source of Supply: ServiceSource, Inc., Oakton, VA

Contracting Activity: NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY (NGA), NATL GEOSPATIAL-INTELLIGENCE AGENCY

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the National Geospatial Agency, Document Management *contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the National Geospatial Agency will refer its business elsewhere, this addition must be effective on September 29, 2021, ensuring timely execution for a September 30, 2021, start date while still allowing 19 days for comment. The Committee determined that no severe adverse impact exists on any current contractor, as this is new requirement never having been contracted for in the past. The Committee also published a notice of proposed Procurement List addition in the* **Federal Register** *on June 18, 2021 and did not receive any comments from any interested persons. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.*

Deletions

On 8/6/2021, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 8460–00–368–4281—Case, Map and Photograph
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s):
8455–01–113–0062—Qualification Badge, Basic Marksman, U. S. Army
8455–01–113–0066—Qualification Badge, Basic Sharpshooter, U. S. Army
Designated Source of Supply: Fontana Resources at Work, Fontana, CA
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s): 7360–00–660–0526—Dining Packet, In-Flight, Deluxe
Designated Source of Supply: Cincinnati Association for the Blind, Cincinnati, OH
Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

NSN(s)—Product Name(s):
8520–01–303–4037—Toothpaste, 3.0 oz., Fluoride
8530–01–293–1387—Toothbrush, Adult, Assorted Colors, 6'', Soft Bristles
Designated Source of Supply: North Jersey Friendship House, Inc., Hackensack, NJ
Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2021–19562 Filed 9–9–21; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

Third-Party Access to the Department's Information Technology Systems and Notice of Criminal Penalties for Misuse of Access Devices

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice.

SUMMARY: The U.S. Department of Education (Department) outlines the requirements for third-party access to the Department's Information Technology (IT) systems and establishes criminal penalties for misuse of access devices. Specifically, this notice sets forth the definition of an access device, the terms of service, the Code of Conduct, and information security standards, and provides notice of related criminal penalties.

DATES: This notice is applicable September 10, 2021.

FOR FURTHER INFORMATION CONTACT: Michael Ruggless, Federal Student Aid, 830 First Street NE, Union Center Plaza, Room 114B4, Washington, DC 20202–5345. Telephone: (202) 377–4098. Email: *Michael.Ruggless@ed.gov.*

Tamy Abernathy, Office of Postsecondary Education, 400 Maryland Avenue SW, 2C–129, Washington, DC 20202. Telephone: (202) 453–5970. Email: *Tamy.Abernathy@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Stop Student Debt Relief Scams Act of 2019 (STOP Act) amended sections 141, 485B, and 490 of the Higher Education Act of 1965, as amended (HEA), on December 22, 2020, to prevent and address the improper use of access devices issued by the Department and establish criminal penalties for improper use. (Pub. L. 116–251; 134 Stat. 1129–1132). Section 485B(e) of these HEA amendments includes provisions for the prevention of improper access to the Department's systems. Section 490(e) of these HEA amendments explicitly makes unauthorized access to the Department's IT systems and the misuse of identification devices issued by the Department a criminal act. Criminal penalties associated with the STOP Act are applicable one day after the date of publication of this notice. All other actions and information pursuant to these HEA amendments contained in this notice are applicable upon publication.

The Department establishes, pursuant to section 2(b) of the STOP Act, the following definition of an access device, terms of service, information security standards, and Code of Conduct.

Definition of Access Device

An access device, as defined in 18 U.S.C. 1029(e)(1), means any—

(a) Card;

(b) Plate;

(c) Code;

(d) Account number;

(e) Electronic serial number;

(f) Mobile identification number;

(g) Personal identification number;

(h) Other telecommunications service, equipment, or instrument identifier; or

(i) Other means of account access that can be used alone or in conjunction with another access device—

(1) To obtain money, goods, services, or any other thing of value; or

(2) To initiate a transfer of funds (other than a transfer originated solely by paper instrument).

Terms of Service

An authorized user must abide by the Code of Conduct and Information Security Standards for Department systems.

Acceptable Use of Systems

(a) A person or entity may be granted access to, and use and share, the Department's assets, data, information resources, and information systems (collectively, the Department's information systems) only if the person or entity is an ''authorized user'' under paragraph (b) and only to the extent otherwise authorized pursuant to this section.

(b) A person or entity may be granted access to the Department's information systems as an authorized user if the person or entity has a bona fide ''need to know'' the information or data contained in the Department's information systems and they are—

(1) A student, borrower, or parent;

(2) A guaranty agency, eligible lender, eligible institution, or a third-party organization acting on behalf of a guaranty agency, eligible lender, or eligible institution that complies with Federal law and requirements applicable to the Department's information systems; or

(3) A licensed attorney representing a student, borrower, or parent, or another individual who works for a Federal, State, local, or Tribal government or agency, or for a nonprofit organization, providing financial or student loan repayment counseling to a student, borrower, or parent, if—

(i) The attorney or other individual has never engaged in unfair, deceptive, or abusive practices, as determined by the Department;

(ii) The attorney or other individual does not work for an entity that has engaged in unfair, deceptive, or abusive practices (including an entity that is owned or operated by a person or entity that engaged in such practices), as determined by the Department;

(iii) System access is provided only through a separate point of entry issued to the attorney or other individual; and

(iv) The attorney or other individual has written consent from the relevant student, borrower, or parent to access the system.

(c) To access the Department's information systems, an authorized user must—

(1) Read, understand, and sign the information system-specific Rules of Behavior;

(2) Have valid and current access authorization issued by the Department;

(3) Access the Department's information systems using an access device issued by the Department to the authorized user, and may not use an access device issued by the Department to a student, borrower, or parent. A student, borrower, or parent, including through a power of attorney, may not authorize a third party to use their access device; and

(4) Comply with the terms of service, information security standards, and Code of Conduct.

(d) No person or entity may access the Department's information systems for the purpose of assisting a student in managing loan repayment or applying for any repayment plan, consolidation loan, or other benefit authorized under title IV of the HEA, except as permitted under this ''Acceptable Use of Systems.''

Criminal Penalties

Section 2 of the STOP Act, Public Law 116–251, amended section 490 of the HEA (20 U.S.C 1097), by adding paragraph (e), which makes it a crime to knowingly use an access device that was issued to another person or obtained by fraud or false statement to access Department information technology systems for commercial advantage, private financial gain, criminal activity, or wrongful act violating United States or State law. A violator is subject to criminal penalties that include a fine of not more than $20,000, imprisonment for not more than five years, or both, beginning one day after the date of publication of this notice.

Code of Conduct

This Code of Conduct identifies the acceptable rules of behavior for accessing the Department's information systems. Upon accessing the Department's information systems, all users will receive a notification warning banner similar to the following that requires them to acknowledge and agree to the Code of Conduct prior to being allowed further access:

''You are accessing a U.S. Federal Government computer system intended to be solely accessed by individual users expressly authorized to access the system by the U.S. Department of Education. Usage may be monitored, recorded, and/or subject to audit. For security purposes, and in order to ensure that the system remains available to all expressly authorized users, the U.S. Department of Education monitors the system to identify unauthorized users. Anyone using this system expressly consents to such monitoring and recording. Unauthorized use of this information system is prohibited and subject to criminal and civil penalties. Except as expressly authorized by the U.S. Department of Education, unauthorized attempts to access, obtain, upload, modify, change, and/or delete information on this system are strictly prohibited and are subject to criminal prosecution under 18 U.S.C. 1030, and other applicable statutes, which may result in fines and imprisonment. This system may contain Personally Identifiable Information (PII), as defined by the Privacy Act of 1974, or other Controlled Unclassified Information as defined by 32 CFR 2002.

For purposes of this system, unauthorized access includes, but is not limited to—

(a) Any access by an employee or agent of a commercial entity, or other third party, who is not the individual user, for purposes of commercial advantage or private financial gain (regardless of whether the commercial entity or third party is providing a service to an authorized user of the system); and

(b) Any access in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State.

If system monitoring reveals information indicating possible criminal activity, such evidence may be provided to law enforcement personnel. These Rules of Behavior identify responsibilities and expectations for all individuals accessing Federal Student Aid (FSA) systems. By accepting, you confirm that you have reviewed, acknowledge, and agree to the following Rules of Behavior:

(a) You must protect all of the Department's information systems, including the Department's data and information in your possession, from access by, or disclosure to, unauthorized individuals or entities.

(b) Your User ID, password, and other credentials are unique and only assigned to the specified authorized user.

(1) Your User ID, password, and other credentials serve as an electronic signature for signing fiduciary documents committing you to financial obligations.

(2) Your User ID, password, and other credentials are for official Department business only.

(c) You must never give your User ID, password, or other credentials to another person, including your supervisor(s). Any information retrieved from the Department's information systems may be shared only with individuals expressly authorized to receive this information.

(d) You must access only systems, networks, data, control information, and software for which you have been

authorized by the U.S. Department of Education.

(e) If you are a third party representing an authorized user under paragraph (b) of the ''Acceptable Use of Systems,'' you must be issued your own unique User ID, password, or credentials; at no time is a third party authorized to use another individual's unique User ID, password, or credentials. A user may not authorize a third party to use their User ID, password, or credentials, including through a power of attorney.

(f) You are individually responsible for ensuring that data/information obtained from the Department's information systems is not used improperly. A legitimate reason must be present to view data/information contained within the Department's information systems.

(g) You must change your password immediately and notify the appropriate security personnel if your password is compromised, or someone else knows your password.

(h) You must properly encrypt (or password protect) all electronic files when transmitting data via email. Passwords must be sent separately (not in the same transmission or transmission channel).

(i) All paper documents containing PII or Controlled Unclassified Information must be labeled and stored in a secure environment, to which only authorized personnel have access.

(j) You must inform or contact the organization that granted initial access when access to an FSA system is no longer required or access changes because of changes in job responsibilities or termination of employment.

(k) You must remain current on all required training, including security training (at least annually).

(l) You must not download or store the Department's information systems information or data on unsecure/public computers or portable devices.

(m) If you have Title IV loans, they must be in good standing. If you have a loan that goes into default, your access to the Department's information systems will be revoked.''

Information Security Standards

In addition to requirements identified in the Terms of Service and Code of Conduct, individuals accessing Department of Education information systems must comply with the following requirements:

(a) A third party accessing the Department's information systems, on behalf of an authorized user, must ensure proper control and handling of Controlled Unclassified Information (CUI), which includes data commonly known as PII, Sensitive Personally Identifiable Information (SPII) and CUI, residing on their computer, on removable media, and on paper documents.

(b) A third party that handles CUI must do so in accordance with Executive Order 13556, 32 CFR 2002—Controlled Unclassified Information, and the CUI Registry.

(c) The third party must ensure data at rest that contains CUI is encrypted using validated FIPS 140–2 encryption in any and all third-party computing environments where data is housed and/or stored.

(d) The third party must consider data at rest to include data that reside in databases, file systems, information technology systems, applications, personal computers (desktops and laptops and portable electronic devices [PEDs] and mobile electronic devices and personal data assistants [PDAs]) and other structured storage devices (USB flash drives, memory cards, external hard drives, writeable CDs, and DVDs) that are not in transit.

(e) The third party must ensure the integrity and confidentiality of the information and protect against any reasonably anticipated security threats or unauthorized uses or disclosures of the information.

If, at any time, CUI is provided to or viewed by unauthorized individual(s), a breach report is required by the third party. A breach report must be submitted to the Department of Education Security Operations Center (EDSOC), email to *EDSOC@ed.gov.* EDSOC may also be contacted by phone at (202) 245–6550.

A Breach or Data Breach is an incident that includes the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, or any similar occurrence where (1) a person other than an authorized user accesses or potentially accesses PII or (2) an authorized user accesses or potentially accesses PII for an unauthorized purpose OMB M–17–12, p. 9. An occurrence may be first identified as an incident, but later identified as a breach once it is determined that the incident involves PII. Breaches include cyber incidents, as well as the loss or theft of physical documents or portable electronic storage media, inadvertent disclosure of PII on a public website, an oral disclosure to a person not authorized to receive that information, or an authorized user accessing PII for an unauthorized purpose, etc.

Accessible Format: On request to one of the program contact persons listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access to the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Program Authority: 20 U.S.C 1001; 20 U.S.C. 1018; 20 U.S.C. 1092b; and 20 U.S.C. 1097.

Richard Cordray,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 2021–19536 Filed 9–9–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–125–000.

Applicants: PSEG New Haven LLC, PSEG Power Connecticut LLC, PSEG Power New York LLC, Generation Bridge II, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of PSEG New Haven LLC, et al.

Filed Date: 9/2/21.

Accession Number: 20210902–5147.

Comment Date: 5 p.m. ET 11/2/21.

Docket Numbers: EC21–126–000.

Applicants: Utah Solar Holdings II LLC, Enterprise Solar, LLC, Escalante

Solar I, LLC, Escalante Solar II, LLC, Escalante Solar III, LLC, Iron Springs Solar, LLC, Granite Mountain Solar West, LLC, Granite Mountain Solar East, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Utah Solar Holdings II LLC, et al.

Filed Date: 9/3/21.

Accession Number: 20210903–5152.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: EC21–127–000.

Applicants: Mojave 3/4/5 LLC, Mojave 16/17/18 LLC, Oasis Power Partners, LLC, Sagebrush, a California partnership, Sagebrush ESS, LLC, Tehachapi Plains Wind, LLC.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of Mojave 3/4/5 LLC, et al.

Filed Date: 9/3/21.

Accession Number: 20210903–5154.

Comment Date: 5 p.m. ET 9/24/21.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–236–000.

Applicants: Sagebrush ESS, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Sagebrush ESS, LLC.

Filed Date: 8/27/21.

Accession Number: 20210827–5210.

Comment Date: 5 p.m. ET 9/17/21.

Docket Numbers: EG21–237–000.

Applicants: Azure Sky Wind Project, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Azure Sky Wind Project, LLC.

Filed Date: 9/3/21.

Accession Number: 20210903–5052.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: EG21–238–000.

Applicants: Alta Farms Wind Project II, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Alta Farms Wind Project II, LLC.

Filed Date: 9/3/21.

Accession Number: 20210903–5053.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: EG21–239–000.

Applicants: Azure Sky Wind Storage, LLC.

Description: Notice of Self-Certification of Exempt Generator Status of FC of Azure Sky Wind Storage, LLC.

Filed Date: 9/3/21.

Accession Number: 20210903–5060.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: EG21–240–000.

Applicants: Ranchland Wind Project II, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Ranchland Wind Project II, LLC.

Filed Date: 9/3/21.

Accession Number: 20210903–5061.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: EG21–241–000.

Applicants: Ranchland Wind Storage, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Ranchland Wind Storage, LLC.

Filed Date: 9/3/21.

Accession Number: 20210903–5062.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: EG21–242–000.

Applicants: Blue Jay Solar I, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Blue Jay Solar I, LLC.

Filed Date: 9/3/21.

Accession Number: 20210903–5065.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: EG21–243–000.

Applicants: Skipjack Solar Center, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Skipjack Solar Center, LLC.

Filed Date: 9/3/21.

Accession Number: 20210903–5104.

Comment Date: 5 p.m. ET 9/24/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–1609–003; ER19–1215–002.

Applicants: Cricket Valley Energy Center, LLC, Carroll County Energy LLC.

Description: Response to August 20, 2021 Deficiency Letter of Carroll County Energy LLC, et al.

Filed Date: 9/2/21.

Accession Number: 20210902–5143.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER20–2926–001.

Applicants: Altamont Winds LLC.

Description: Supplement to August 20, 2021 Notice of Non-Material Change in Status of Altamont Winds LLC.

Filed Date: 9/2/21.

Accession Number: 20210902–5144.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2381–001.

Applicants: Wisconsin Electric Power Company.

Description: Tariff Amendment: Request for Deferral of Action to be effective 12/31/9998.

Filed Date: 9/2/21.

Accession Number: 20210902–5125.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2478–001.

Applicants: Milford Power Company, LLC.

Description: Tariff Amendment: Administrative Cancellations and Revisions to Tariffs to be effective 9/20/2021.

Filed Date: 9/2/21.

Accession Number: 20210902–5133.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2825–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to Original WMPA Service Agreement No. 5589; Queue No. AE2–115 to be effective 1/8/2020.

Filed Date: 9/2/21.

Accession Number: 20210902–5131.

Comment Date: 5 p.m. ET 9/23/21.

Docket Numbers: ER21–2826–000.

Applicants: NRG Curtailment Solutions, Inc.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization and Request for Waivers to be effective 9/4/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5040.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2827–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: IFA & DSA Corona Porphyry Interconnection Project SA No. 1153 & 1154 to be effective 9/4/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5072.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2828–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–09–03_SA 3698 NSPM–GRE T–T (Koch 115kV) to be effective 9/4/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5086.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2829–000.

Applicants: East Line Solar, LLC.

Description: § 205(d) Rate Filing: East Line Solar, LLC Shared Facilities Agreement to be effective 10/1/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5089.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2830–000.

Applicants: Central Line Solar, LLC.

Description: § 205(d) Rate Filing: Central Line Solar, LLC Shared Facilities Agreement to be effective 10/1/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5099.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2831–000.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: § 205(d) Rate Filing: CAPX–BRKGS–TCEA–538–0.1.0 to be effective 11/2/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5106.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2832–000.

Applicants: Eagle Creek Reusens Hydro, LLC.

Description: Baseline eTariff Filing: Reactive Power Tariff Application to be effective 10/1/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5133.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2833–000.

Applicants: Great Falls Hydroelectric Company.

Description: Baseline eTariff Filing: Reactive Power Tariff Application to be effective 10/1/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5141.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2834–000.

Applicants: ALLETE, Inc.

Description: § 205(d) Rate Filing: Transmission and Service Agreements Tariff, 306–NSP, CAPX Fargo CMA Agmt to be effective 4/24/2013.

Filed Date: 9/3/21.

Accession Number: 20210903–5158.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2835–000.

Applicants: ALLETE, Inc.

Description: § 205(d) Rate Filing: Transmission and Service Agreements Tariff, 307–NSP, CAPX Fargo OMA Agmt to be effective 4/24/2013.

Filed Date: 9/3/21.

Accession Number: 20210903–5160.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2836–000.

Applicants: ALLETE, Inc.

Description: § 205(d) Rate Filing: Transmission and Service Agreements Tariff, 281–NSP, CAPX Fargo TCEA Agmt to be effective 4/24/2013.

Filed Date: 9/3/21.

Accession Number: 20210903–5161.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2837–000.

Applicants: ALLETE, Inc.

Description: § 205(d) Rate Filing: FERC Electric Tariff, OMA, Bemidji-Grand Rapids Operation and Maintenance Agmt to be effective 4/24/2013.

Filed Date: 9/3/21.

Accession Number: 20210903–5166.

Comment Date: 5 p.m. ET 9/24/21.

Docket Numbers: ER21–2838–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2021–09–03 Gen Rplcmt Coord agrmt-Excel Engineering to be effective 9/4/2021.

Filed Date: 9/3/21.

Accession Number: 20210903–5167.

Comment Date: 5 p.m. ET 9/24/21.

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: September 3, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19532 Filed 9–9–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD21–10–000]

Modernizing Electricity Market Design; Supplemental Notice of Technical Conference on Energy and Ancillary Services in the Evolving Electricity Sector

As first announced in the Notice of Technical Conference issued in this proceeding on July 14, 2021, the Federal Energy Regulatory Commission (Commission) will convene a staff-led technical conference in the above-referenced proceeding on September 14, 2021, from approximately 9:00 a.m. to 5:00 p.m. Eastern time. The conference will be held remotely. Attached to this Supplemental Notice is an agenda for the technical conference, which includes the final conference program and expected speakers. Commissioners may attend and participate in the technical conference.

Discussions at the conference may involve issues raised in proceedings that are currently pending before the Commission. These proceedings include, but are not limited to:

	Docket No.
California Independent System Operator Corporation	ER21–2455–000
New York Independent System Operator, Inc	ER21–2460–000
PJM Interconnection, L.L.C	ER21–1919–000
PJM Interconnection, L.L.C	EL21–78–000, et al.
Midcontinent Independent System Operator, Inc	ER21–2620–000
Midcontinent Independent System Operator, Inc	ER21–2486–000; ER21–2487–000
Midcontinent Independent System Operator, Inc	ER21–2720–000
PJM Interconnection, L.L.C	EL19–58, et al.; ER19–1486, et al.
PJM Interconnection L.L.C	ER21–2582–000

The conference will be open for the public to attend remotely. There is no fee for attendance. Information on this technical conference, including a link to the webcast, will be posted on the conference's event page on the Commission's website (*https://www.ferc.gov/news-events/events/technical-conference-regarding-energy-and-ancillary-services-markets-09142021*) prior to the event. The conference will be transcribed. Transcripts will be available for a fee from Ace Reporting (202–347–3700).

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

For more information about this technical conference, please contact Emma Nicholson at *emma.nicholson@ferc.gov* or (202) 502–8741, or Alexander

Smith at *alexander.smith@ferc.gov* or (202) 502–6601. For legal information, please contact Adam Eldean at *adam.eldean@ferc.gov* or (202) 502–8047. For information related to logistics, please contact Sarah McKinley at *sarah.mckinley@ferc.gov* or (202) 502–8368.

Dated: September 3, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19531 Filed 9–9–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–487–000]

Hardy Storage Company, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on August 26, 2021, Hardy Storage Company, LLC (HSC), 700 Louisiana Street, Houston, Texas 77002–2700, filed in the above referenced docket a prior notice pursuant to sections 157.205 and 157.214 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act, seeking authorization to increase the maximum storage capacity at the Hardy Storage Field, located in Hardy and Hampshire Counties, West Virginia, from 29.6 billion cubic feet (Bcf) to 31.07 Bcf. HSC states this increase reflects the quantity of additional base gas needed to improve late season deliverability in the Hardy Storage Field. HSC proposes this maximum storage capacity increase under authorities granted by its blanket certificate issued in Docket No. CP05–152–000,[1] all as more fully set forth in the request 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://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to David A. Alonzo, Manager, Project Authorizations, Hardy Storage Company, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, phone: 832–320–5477, email: *david_alonzo@tcenergy.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 November 2, 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 NGA,[2] any person [3] 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,[4] and must be submitted by the protest deadline, which is November 2, 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 Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is November 2, 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 November 2, 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

[1] 113 FERC ¶ 61,118 (2005).

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

reference the Project docket number CP21–487–000 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''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below.[8] Your submission must reference the Project docket number CP21–487–000.

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.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: David A. Alonzo, Manager, Project Authorizations, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700 or *david_alonzo@tcenergy.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

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: September 3, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19528 Filed 9–9–21; 8:45 am]

BILLING CODE 6717–01–P

[7] 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.

[8] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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: RP21–1096–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Non-Conforming Agreement Update (SoCal Sept–Oct 2021) to be effective 9/3/2021.
Filed Date: 9/2/21.
Accession Number: 20210902–5127.
Comment Date: 5 p.m. ET 9/14/21.

Docket Numbers: RP20–921–000.
Applicants: Maritimes & Northeast Pipeline, L.L.C.
Description: Refund Report: RP20–921 Refund Report to be effective N/A.
Filed Date: 9/2/21.
Accession Number: 20210902–5092.
Comment Date: 5 p.m. ET 9/14/21.

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 protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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: September 3, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19530 Filed 9–9–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL21–92–000]

Carolinas Clean Energy Business Association v. PJM Interconnection, L.L.C. and Duke Energy Progress, LLC; Notice of Withdrawal

September 3, 2021.

On August 25, 2021, pursuant to Rule 216 of the Commission's Rules of Practice and Procedure,[1] the Carolinas Clean Energy Business Association (CCEBA) filed a motion to withdraw its complaint against PJM Interconnection, L.L.C. (PJM) and Duke Energy Progress, LLC (DEP), requesting expedited treatment of the motion to withdraw. On August 31, 2021, the Commission issued a notice shortening the comment period on the motion to withdraw to September 2, 2021.

CCEBA states that PJM and DEP have committed to work with CCEBA to consider the issues raised in the complaint through settlement and to file any resulting amendments to PJM and DEP's joint operating agreement with the Commission under section 205 of the Federal Power Act no later than mid-December 2021.[2] CCEBA further states that such settlement will most expeditiously resolve the issues identified in the complaint, making withdrawal preferable. CCEBA asserts that its withdrawal is without prejudice to CCEBA's right to re-file the complaint. CCEBA also states that PJM and DEP have authorized CCEBA to state that they do not oppose withdrawal of the complaint.

Upon consideration, notice is hereby given that CCEBA's requested motion to withdraw is granted, effective as of the date of this notice.

Dated: September 3, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–19529 Filed 9–9–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9058–3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

[1] 18 CFR 385.216(b) (2020).

[2] CCEBA Motion to Withdraw at 2.

Weekly receipt of Environmental Impact Statements (EIS)
Filed August 30, 2021 10 a.m. EST Through September 3, 2021 10 a.m. EST
Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20210132, Draft, NMFS, AK, Bering Sea and Aleutian Islands (BSAI) Halibut Abundance-based Management (ABM) of Amendment 80 Prohibited Species Catch (PSC) Limit, Comment Period Ends: 10/25/2021, Contact: Joseph Krieger 907–586–7228.

EIS No. 20210133, Final, USDA, MT, Mid-Swan Landscape Restoration and Wildland Urban Interface Project, Review Period Ends: 10/25/2021, Contact: Joseph Krueger 406–758–5243.

EIS No. 20210134, Draft, USACE, SC, Charleston Peninsula Coastal Flood Risk Management Draft Feasibility Report/Environmental Impact Statement, Comment Period Ends: 10/25/2021, Contact: Nancy Parrish 843–329–8017.

EIS No. 20210135, Draft, USFS, MN, Lutsen Mountains Ski Area Expansion Project, Comment Period Ends: 10/25/2021, Contact: Michael Jimenez 218–626–4383.

EIS No. 20210136, Final, USACE, TX, Coastal Texas Protection and Restoration Feasibility Study, Review Period Ends: 10/12/2021, Contact: Jeff Pinsky 409–766–3039.

Dated: September 3, 2021.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2021–19526 Filed 9–9–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2020–0632; FRL—8978–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NSPS for Lime Manufacturing (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''NSPS for Lime Manufacturing (EPA ICR Number 1167.13, OMB Control Number 2060–0063), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through December 31, 2021. Public comments were previously requested, via the **Federal Register**, on February 8, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently-valid OMB control number.

DATES: Additional comments may be submitted on or before October 12, 2021.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2020–0632 online using *www.regulations.gov* (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@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,* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

Abstract: The New Source Performance Standards (NSPS) for Lime Manufacturing (40 CFR part 60, subpart HH) apply to existing and new rotary lime kilns used in the manufacturing of lime. Owners and operators of affected facilities are required to submit initial notifications, performance tests, and periodic reports. They are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. These notifications, reports, and records are used by EPA to determine compliance with the standards.

Form Numbers: None.

Respondents/affected entities: Lime production facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart HH).

Estimated number of respondents: 41 (total).

Frequency of response: Initially and semiannually.

Total estimated burden: 3,820 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $514,000 (per year), which includes $61,500 in annualized capital/startup and/or operation & maintenance costs.

Changes in the Estimates: There is no change in the total estimated respondent burden compared with the ICR currently approved by OMB. This situation is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or operation and maintenance (O&M) costs.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2021–19527 Filed 9–9–21; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK

[Public Notice: 2021–3026]

Agency Information Collection Activities: Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Submission for OMB review and comments request.

SUMMARY: The Export-Import Bank of the United States (Ex-Im Bank), as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Comments should be received on or before October 12, 2021 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *http://www.regulations.gov* or by mail to Mardel West, Export-Import Bank of the United States, 811 Vermont Avenue NW, Washington, DC 20571.

Comments submitted in response to this notice may be made available to the public through the *www.regulations.gov*. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Tiffin Caverly <*tiffin.caverly@exim.gov*>, 202–565–3564.

SUPPLEMENTARY INFORMATION: This collection will provide information needed to determine compliance and creditworthiness for transaction requests involving previously-owned equipment submitted to Ex-Im Bank under its insurance, guarantee, and direct loan programs. Information presented in this form will be considered in the overall evaluation of the transaction, including Export-Import Bank's determination of the appropriate term for the transaction.

The form can be viewed at: *https://www.exim.gov/sites/default/files/forms/eib11-03.pdf*.

Titles and Form Number: EIB 11–03, Used Equipment Questionnaire.

OMB Number: 3048–0039.

Type of Review: Regular.

Need and Use: The information collected will provide information needed to determine compliance and creditworthiness for transaction requests involving previously-owned equipment submitted to the Export Import Bank under its insurance, guarantee, and direct loan programs.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 1,000.

Estimated Time per Respondent: 15 minutes.

Annual Burden Hours: 250 hours.

Frequency of Reporting or Use: As needed.

Government Expenses:

Reviewing Time per Year: 250 hours.

Average Wages per Hour: $42.50.

Average Cost per Year: $10,625 (time*wages).

Benefits and Overhead: 20%.

Total Government Cost: $12,750.

Bassam Doughman,

IT Specialist.

[FR Doc. 2021–19414 Filed 9–9–21; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

Sunshine Act Meetings

Notice of an Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND DATE: Thursday, September 16, 2020 at 9:30 a.m.

PLACE: The meeting will be held via teleconference.

STATUS: The meeting will be open to public observation for Item Numbers 1 and 2.

MATTERS TO BE CONSIDERED:

1. Appointment of EXIM Advisory Committee for 2021–22.

2. Appointment of EXIM Sub-Saharan Africa Advisory Committee for 2021–22.

CONTACT PERSON FOR MORE INFORMATION: Joyce B. Stone, (202–257–4086). Members of the public who wish to attend the meeting via teleconference should register via using the link below:

Register Here

By noon Wednesday, September 15, 2021. Individuals will be directed to a Webinar registration page and provided call-in information.

Joyce B. Stone,

Assistant Corporate Secretary.

[FR Doc. 2021–19602 Filed 9–8–21; 11:15 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[RM–11798; DA 21–1025; FRS 46463]

Wireless Telecommunications Bureau Seeks To Refresh the Record on Unmanned Aircraft Systems Use of the 5 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Wireless Telecommunications Bureau seeks to refresh and update the record in this proceeding, which was commenced to consider a petition for rulemaking filed by the Aerospace Industries Association (AIA) that asked the Commission to adopt licensing and service rules for Control and Non-Payload Communications (CNPC) links in the 5030–5091 MHz band to support Unmanned Aircraft Systems (UAS) operations in the United States.

DATES: Comments are due October 12, 2021 and reply comments are due October 25, 2021.

ADDRESSES: You may submit comments, identified by RM–11798, by any of the following methods:

- *Federal Communications Commission's Website: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

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

FOR FURTHER INFORMATION CONTACT: Peter Trachtenberg of the Wireless Telecommunications Bureau, Mobility Division, at (202) 418–7369 or *Peter.Trachtenberg@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document (Public Notice), RM–11798, DA 21–1025, released on August 20, 2021. The complete text of this document is available on the

Commission's website at *https://www.fcc.gov/document/wtb-seeks-refresh-record-uas-use-5-ghz-band* or by using the search function for RM–11798 on the Commission's ECFS web page at *www.fcc.gov/ecfs.*

Synopsis

With this Public Notice, the Wireless Telecommunications Bureau seeks to refresh the record on a petition for rulemaking filed by the AIA on February 8, 2018 to address the growing need of the UAS industry for access to licensed spectrum for CNPC links. We issue this Public Notice to update the record to reflect operational, technical, and regulatory developments that have occurred over the last three years in the rapidly growing and evolving area of UAS operations and that are relevant to this proceeding. We also seek to explore certain aspects of the AIA proposal in greater detail than is reflected in the current record. Finally, because the focus of the AIA proposal and the resulting comment record appears to be in support of direct radio-line-of-sight (LOS) communications links between controller and unmanned aircraft, we seek comment on whether the Commission should consider licensing alternatives in this band to support the growing interest in beyond-radio-line-of-sight (BLOS) UAS operations. We anticipate that the resulting record could help the Commission to proceed with a more informed and specific Notice of Proposed Rulemaking to make the 5030–5091 MHz band available as a suitable spectrum resource for UAS operations.

AIA Proposal

We first seek updated and additional comment on all aspects of the AIA proposal as a licensing approach for UAS operations in the 5030–5091 MHz band, and in particular, the aspects discussed below.

License eligibility. We seek comment on whether, as proposed by AIA, the Commission should require that parties seeking a 5030–5091 MHz band spectrum license must certify they have the requisite FAA remote pilot certification, or, in the case of organizations, to certify that they will utilize only individuals with such qualifications for their UAS operations in the band. Given that UAS operators would in any case be subject to applicable FAA regulations, including regulations requiring the relevant FAA pilot certification, we seek comment on the benefits of conditioning license eligibility on compliance with such requirements.

Dynamic frequency assignment. As mentioned earlier, a central element of AIA's proposal is a dynamic frequency assignment management system, which would automatically process requests from licensees for temporary assignment of bandwidth in the 5030–5091 MHz band in a specified geographic area or path covering the anticipated flight path, for a specified duration covering the anticipated flight duration. Under the AIA proposal, requests would need to be made a short time before the expected flight (AIA suggests no more than 20 minutes), and at the end of the estimated flight duration, or some ''reasonable'' period after, the assigned frequencies would automatically become available for reassignment. We seek comment on this proposal, including the feasibility and practicality of implementing and operating a dynamic frequency assignment management system for this purpose, any current or planned technologies or systems that could perform the necessary functions and are scalable to meet the real-time coordination needs of a large and growing number of operations, and what new or modified technologies, devices, connections, or standards would be needed to implement this approach. For example, Spectrum Access Systems are automated frequency coordinators that the Commission established in the 3550–3700 MHz band to coordinate and implement spectrum access and prioritization among users of three different tiers of services in that band with ascending priority rights. Would this technology be appropriate here? We seek comment on the status of pending standards work relevant to implementing a dynamic frequency assignment approach for UAS access to the 5030–5091 MHz band, and to the extent additional standards work would be required. We seek comment on the process for authorizing the frequency assignment manager, on minimum eligibility requirements or restrictions for applicants, and on whether we should permit more than one manager. We further seek comment on any requirements or standards governing requests for assignment of frequencies and the processing of these requests, and whether the standards and processing procedures for requests should be left to the discretion of the manager.

AIA proposes that the Commission require licensees to ''release'' assignments at the end of the flight, and that assignments be automatically ''revoked'' some period after the estimated duration of the flight if not otherwise released. We seek comment on these aspects of AIA's proposal. We seek comment on what, if any, enforcement mechanism to impose on the requirement that assignments be released at the end of the flight. We also seek comment on what connections or communications between the frequency assignment management system and UAS stations will be needed to implement these processes. Would revocation create potential safety concerns if revocation occurred while a flight was ongoing? If so, how should such concerns be addressed? We seek comment on any requirements needed to ensure that these processes, as well as the initial processing of requests, occur in a manner that is secure, reliable, and timely.

Technical requirements. We seek comment on the appropriate technical requirements and parameters. In its petition, AIA states that the technical rules for CNPC links in the 5030–5091 MHz band should be flexible to support ongoing UAS development, but also proposes certain technical parameters based on the technical standard RTCA DO–362. Specifically, AIA proposes that:

- Transmitter power and emissions in the 5030–5091 MHz band should conform to the requirements in RTCA DO–362 § 2.2.1.6.
- The frequency accuracy of a 5030–5091 MHz CNPC transmitter, or of the local oscillator of a 5030–5091 MHz CNPC receiver, should not vary more than 0.2 parts per million (ppm) from the intended value, as stipulated in RTCA DO–362 § 2.2.1.4.
- Emission limits for Aeronautical Stations and Aircraft Stations indicated in Section 87.139(c) of the Commission's rules be applicable to such stations that are capable of operating in the 5030–5091 MHz band to support UAS CNPC links, in addition to the emission limits imposed by RTCA DO–362 § 2.2.1.6.32.

We request comment on these parameters and any other parameters that must be considered, including whether an altitude limit on UAS use of the 5030–5091 MHz band should be established to maximize the spectral efficiency of the band. We also request comment on the emission limitations of section 87.139, and whether any changes are necessary to accommodate UAS operations, especially those considered in RTCA DO–362. We also request comment on any additional technical limitations necessary to protect the AeroMACS bands, 5000–5030 MHz and 5091–5150 MHz.

Scope of permitted services. We seek further comment on the scope of

services to be permitted in the band. The relevant allocation of the band to aeronautical mobile (route) service (AM(R)S) may be used only for communications ''relating to the safety and regularity of flight.'' We seek comment on what types of UAS communications fall within the scope of this allocation, and on whether all UAS communications that are within the scope of AM(R)S should be permitted. We further seek comment on whether CNPC generally are consistent with the allocation and its purpose, whether we should permit all UAS CNPC communications in the band while prohibiting UAS payload or non-UAS communications, and if so, how CNPC communications and payload communications should be defined for the purpose of these rules. We also seek comment on whether to adopt an approach that combines a broad scope of permitted communications with a prioritization mechanism. For example, should we permit UAS payload communications in the band or non-UAS general purpose communications subject to the prioritization of UAS CNPC? We seek comment on whether permitting such services would require the Commission to modify the current allocation of the band, and if so, whether the band allocation should be modified as necessary to permit payload and/or non-UAS general purpose mobile communications on a secondary basis and subject to some scheme of CNPC priority.

Alternative Approaches Supporting BLOS Use

As mentioned, the focus of the AIA proposal appears to be in support of direct LOS communications links between controller and unmanned aircraft. The proposal would provide operators with highly transitory spectrum assignments tailored in both geography and time to specific flights. We seek comment on whether the spectrum assignment model proposed by AIA would provide sufficient scope and certainty to incentivize the deployment of network infrastructure that can support both LOS and BLOS flights. We seek comment on the extent to which additional or alternative approaches to licensing the 5030–5091 MHz band might better support such deployment, or otherwise be more effective in supporting BLOS flights in particular, or UAS flights overall. To the extent that commenters advocate for alternatives, we ask them to submit specific, detailed, and comprehensive proposals for licensing the 5030–5091 MHz band to support UAS communications.

We seek comment on whether alternatives to the AIA proposal might provide better support for BLOS communications. We note that while UAS operations have in the past been predominantly LOS, there is growing interest in and exploration of BLOS operations, such as for package delivery, mapping, search-and-rescue, long-range infrastructure inspections, and surveillance flights. We seek comment on the anticipated uses of the 5030–5091 MHz band, the extent to which there is interest in use of the 5030–5091 MHz band for BLOS operations in particular, and the type of infrastructure necessary to support such use. We anticipate that BLOS communications will require the deployment of network infrastructure, and seek comment on this assessment, and on whether licensing the band with exclusive geographic area-based licenses would more effectively promote such deployment, and on the costs and benefits generally of such an approach. We further seek comment on what specific license terms would be appropriate for a geographic area-based license approach to the band, including the appropriate geographic area, spectrum block size, license duration, performance requirements, permissible service scope, and technical requirements. We seek comment on whether adopting relatively larger geographic areas, such as Regional Economic Area Groupings, is justified to better support long-range, BLOS UAS operations. We seek comment on a spectrum block size that will maximize the utility and benefit of the band, considering factors such as the benefits of competition from multiple providers, the expected spectrum needs and demand level of UAS operations, and the interest in accommodating, as much as is practical, a range of UAS operations that may have significantly varying bandwidth requirements. Regarding license duration and performance requirements, we seek comment on a ten-year renewable license and establishing population-based buildout requirements, similar to what the Commission has established in many other mobile network bands.

We further seek comment on other alternatives that do not require an operator license. As discussed above, AIA proposes that we require operators or organizations that employ them to hold a nationwide, non-exclusive license before they can receive spectrum assignments. We seek comment on whether this aspect of the proposal is necessary for this type of service, or whether an approach could be implemented that does not require any operator license but relies instead on some form of station license, with station equipment held to technical requirements (such as RTCA DO–362 requirements) in the Commission's equipment authorization process. For example, we seek comment on whether to adopt licensed-by-rule station licensing for the band, analogous to aircraft station licensing under Part 87. Under this approach, operators would not need a separate spectrum license from the Commission, and equipment that met Commission equipment authorization requirements would be licensed automatically, although potentially still subject to an automatic frequency assignment or reservation process such as the dynamic assignment process proposed by AIA. We seek comment on whether, under this approach, ground stations should be separately licensed, whether we should provide site-based licenses to cover such stations, and the costs and benefits of this approach. Is site-based licensing practical to implement very temporary assignments (*e.g.,* assignments for uses lasting only a few hours or days)? How would site-based licensing address operations that involve hand-held or portable controllers rather than fixed stations? If we were to adopt such an approach, what rules should we adopt to foster efficient use of spectrum and to avoid interference? How should we define the permissible scope of a site and the duration of the license? What coordination requirements and mechanisms should we adopt?

We also invite comment on hybrid approaches to licensing the band. For example, we seek comment on whether to partition the band into two segments, one in which we adopt an approach like the AIA proposal, the other in which we issue exclusive geographic area licenses for network-based services. If so, should we split the band equally between the two segments, or assign more spectrum to one of them? We further seek comment on options that might support both approaches in the same segment of the band. For example, should the frequencies subject to geographic area licensing nevertheless be assignable for temporary direct links in a particular geographic area through an approach such as the AIA proposal until the relevant geographic area licenses in that area are actually assigned to a licensee? Or should we allow such access unless the spectrum is actually ''in use,'' *e.g.,* providing licensees in the direct link segment of the band with access to the spectrum in the segment subject to geographic area licensing except in

those license areas with at least some actual deployment, or except within the signal coverage of deployed base stations?

Comment Filing Procedures

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

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, 35 FCC Rcd 2788 (2020), *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

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

Ex Parte Rules

This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[1] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Federal Communications Commission.

Amy Brett,

Acting Chief of Staff, Wireless Telecommunications Bureau.

[FR Doc. 2021–19499 Filed 9–9–21; 8:45 am]

BILLING CODE 6712–01–P

[1] 47 CFR 1.1200 *et seq.* Although the Rules do not generally require *ex parte* presentations to be treated as ''permit but disclose'' in Petition for Rulemaking proceedings, *see* 47 CFR 1.1204(b)(2), we exercise our discretion in this instance, and find that the public interest is served by making *ex parte* presentations available to the public, in order to encourage a robust record. *See id.* § 1.1200(a).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Respiratory Integrative Biology and Translational Research Study Section.

Date: October 7–8, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, (301) 451–8754, *nussb@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Biomedical Imaging and Metabolism Instrumentation S10 Grant Programs.

Date: October 7, 2021.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jan Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5106, Bethesda, MD 20892, (301) 402.9607, *Jan.Li@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Virology.

Date: October 7, 2021.

Time: 9:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Richard G. Kostriken, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192,

MSC 7808, Bethesda, MD 20892, (240) 519–7808, *kostrikr@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Intercellular Interactions Study Section

Date: October 7, 2021.

Time: 11:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Thomas Y. Cho, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–4179, *thomas.cho@nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Cell Signaling and Molecular Endocrinology Study Section.

Date: October 12–13, 2021.

Time: 10:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Latha Malaiyandi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 812Q, Bethesda, MD 20892, (301) 435–1999, *malaiyandilm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Innate Immunity and Inflammation.

Date: October 13, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Liying Guo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, (301) 827–7728, *lguo@mail.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Nanotechnology Study Section.

Date: October 13–14, 2021.

Time: 9:00 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Joseph Thomas Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, (301) 408–9694, *petersonjt@csr.nih.gov*.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Cancer Etiology Study Section.

Date: October 13–14, 2021.

Time: 10:00 a.m. to 8:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sarita Kandula Sastry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20782, (301) 402–4788, *sarita.sastry@nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Molecular and Integrative Signal Transduction Study Section.

Date: October 13, 2021.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Zubaida Saifudeen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) 827–3029, *zubaida.saifudeen@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Research to Improve Native American Health.

Date: October 13, 2021.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sarah Vidal, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710Q, Bethesda, MD 20892, (301) 402–6746, *sarah.vidal@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 7, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19560 Filed 9–9–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group; Biobehavioral and Behavioral Sciences Study Section.

Date: November 12, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131A, Bethesda, MD 20892 (Virtual Assisted Meeting).

Contact Person: Clay Mash, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2131A, Bethesda, MD 20892, (301) 496–6866, *mashc@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: September 7, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19558 Filed 9–9–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Stakeholder Measures and Advocate Forms at the National Cancer Institute (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received

within 30-days of the date of this 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.

FOR FURTHER INFORMATION CONTACT: Amy Williams, Director of the Office of Advocacy Relations (OAR), NCI, NIH, 31 Center Drive, Bldg. 31, Room 10A28, MSC 2580, Bethesda, MD 20892, call non-toll-free number 240–781–3406, or email your request, including your address, to *amy.williams@nih.gov.*

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on October 8, 2020, page 63565 (Vol. 85 FR 63565) and allowed 60 days for public comment. No public comments were received. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Stakeholder Measures and Advocate Forms at the National Cancer Institute (NCI), OMB #0925–NEW: Expiration Date XX/XX/XXXX, NEW, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The Office of Advocacy Relations (OAR) has collected data from different stakeholder constituencies: NIH and NCI staff, NCI-funded scientists and staff from universities and cancer centers, research advocates and their advocacy organizations, and members of scientific and professional societies and their organizations concerned about cancer. OAR uses the Profile Completion Questionnaire to capture applicant information such as basic contact information, age, gender, race and ethnicity, work focus, employment status, health experiences, and research advocacy experience. In addition, a post-activity survey is requested to ensure the advocates received property support by assessing satisfaction, expectations, involvement, barriers, and recruitment while working with the NCI. OAR continues to use the database system, which will allow this information to be collected electronically to match advocates easily and appropriately to NCI initiatives and activities as well as to assist NCI researchers in finding advocates to support their activities. In the previous three years, OAR has welcomed 49 advocates into our network. Advocates have contributed to over 30 activities, ranging widely in scope and duration. Several examples include speaking engagements, Task Force appointments, Steering Committee appointments, webinars, Advisory Board appointments, etc. These forms were previously approved as, ''Generic Submission for Formative Research, Pre-testing, Stakeholder Measures and Advocate Forms at NCI'' (OMB #: 0925–0641, Expiration *Date:* 1/31/2021). However, since OAR has not submitted Gen ICs for the past approvals this is being submitted as a new submission.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 16.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Profile Completion	Individuals	30	1	30/60	15
Survey	Individuals	15	1	5/60	1
Totals			45		16

Dated: September 2, 2021.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2021–19544 Filed 9–9–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE ON DRUG ABUSE, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.

Date: October 26, 2021.

Time: 8:00 a.m. to 5:15 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Institute on Drug Abuse, NIH, Biomedical Research Center, 251 Bayview Boulevard, Baltimore, MD 21224 (Virtual Meeting).

Contact Person: Deon M. Harvey, Ph.D., Management Analyst, Office of the Scientific Director, National Institute on Drug Abuse, 251 Bayview Boulevard, Room 04A314, Baltimore, MD 21224, (443) 740–2466, *deon.harvey@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 3, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19533 Filed 9–9–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Acute Renal Injury Sequelae in NICU Graduates (ARISING).

Date: October 15, 2021.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: September 7, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19559 Filed 9–9–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–20–131: Mammalian Models for Translational Research.

Date: October 4, 2021.

Time: 11:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jeffrey Smiley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–272–4596, *smileyja@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies: A Study Section.

Date: October 5–6, 2021.

Time: 10:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Tissue Engineering Study Section.

Date: October 12–13, 2021.

Time: 9:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Srikanth Ranganathan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7802, Bethesda, MD 20892, (301) 435–1787, *srikanth.ranganathan@nih.gov*.

Name of Committee: Cell Biology Integrated Review Group; Development—2 Study Section.

Date: October 12–13, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rass M. Shayiq, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroscience and Neurodegeneration Study Section.

Date: October 13–14, 2021.

Time: 8:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alessandra C. Rovescalli, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 5205, MSC 7846, Bethesda, MD 20892, (301) 435–1021, *rovescaa@mail.nih.gov*.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroimmunology and Brain Tumors Study Section.

Date: October 14–15, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aleksey Gregory Kazantsev, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, Bethesda, MD 20817, 301–435–1042, *aleksey.kazantsev@nih.gov*.

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Pathogenic Eukaryotes Study Section.

Date: October 14–15, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 19–367: Maximizing Investigators' Research Award.

Date: October 14–15, 2021.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sudha Veeraraghavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1504, *sudha.veeraraghavan@nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Biophysics of Neural Systems Study Section.

Date: October 14–15, 2021.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Geoffrey G. Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Human Studies of Diabetes and Obesity Study Section.

Date: October 14–15, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Hui Chen, MD, Scientific Review Officer, Center for Scientific Review National, Institutes of Health, 6701 Rockledge Drive, Room 6164, Bethesda, MD 20892, 301–435–1044, *chenhui@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 3, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–19534 Filed 9–9–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive Patent License: Chimeric Live-Attenuated Vaccine for West Nile Virus (WNV)

AGENCY: National Institutes of Health, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The National Institute of Allergy and Infectious Diseases, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Commercialization Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Summary Information section of this notice to Blue Water Vaccines, Inc. (BWV), having a place of business in Cincinnati, Ohio, U.S.A.

DATES: Only written comments and/or applications for a license which are received by the National Institute of Allergy and Infectious Diseases' Technology Transfer and Intellectual Property Office on or before September 27, 2021 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated Exclusive Commercialization Patent License should be directed to: Peter Soukas, Technology Transfer and Patent Specialist, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, National Institutes of Health; Email: *ps193c@nih.gov;* Telephone: (301) 496–2644; Facsimile: (240) 627–3117.

SUPPLEMENTARY INFORMATION:

Intellectual Property

U.S. Provisional Patent Application Number 60/347,281, filed January 10, 2002, PCT Patent Application Number PCT/US2003/00594, filed January 9, 2003, U.S. Patent Application Number 10/871,775 filed June 18, 2004 (now U.S. Patent Number 8,778,671), U.S. Patent Application Number 14/305,572, filed June 16, 2014 (now U.S. Patent Number 10,058,602), U.S. Patent Application Number 16/025,624, filed July 2, 2018 (now U.S. Patent Number 10,456,461), U.S. Patent Application Number 16/596,175, filed October 8, 2019 (now U.S. Patent Number 10,869,920), U.S. Patent Application Number 16/952,864, filed November 19, 2020, Israeli Patent Application Number 162949, filed January 9, 2003 (now Israeli Patent Number 162949), Israeli Patent Application Number 209342, filed January 9, 2003 (now Israeli Patent Number 209342), Canadian Patent Application Number 2472468, filed January 9, 2003 (now Canadian Patent Number 2472468), Canadian Patent Application Number 2903126, filed August 27, 2015 (now Canadian Patent Number 2903126), Australian Patent Application Number 2003216046, filed January 9, 2003 (now Australian Patent Number 2003216046), Australian Patent Application Number 2008203442 filed July 31, 2008 (now Australian Patent Number 2008203442), Australian Patent Application Number 2011250694, filed November 10, 2011 (now Australian Patent Number 2011250694), Australian Patent Application Number 2017203108, filed May 10, 2017 (now Australian Patent Number 2017203018), Australian Patent Application Number 2019203166, filed May 6, 2019 (now Australian Patent Number 2019203166), Australian Patent Application Number 2021203089, filed May 17, 2021, Japanese Patent Application Number 2003–559545, filed January 9, 2003 (now Japanese Patent Number 4580650), European Patent Application Number 11000126.0, filed January 9, 2003 (now European Patent Number 2339011, validated in Belgium, Great Britain, the Netherlands, Norway, Germany, Denmark and France), entitled ''Construction of West Nile Virus and Dengue Virus Chimeras for use in a Live Virus Vaccine to Prevent Disease Cause by West Nile Virus,'' [HHS Reference No. E–357–2001–0,1]; and U.S. and foreign patent applications claiming priority to the aforementioned applications.

The patent rights in this invention have been assigned to the Government of the United States of America.

The prospective exclusive licensed territory may be worldwide, and the field of use may be limited to: ''Chimeric Live-Attenuated Vaccines for West Nile Virus (WNV) for use in animals or humans.''

West Nile virus (WNV) is a positive-strand RNA virus of the family Flaviviridae, part of the Japanese encephalitis virus serocomplex that includes important human pathogens such as Murray Valley encephalitis, Japanese encephalitis, and St. Louis encephalitis viruses. WNV has been present in Africa and Asia for decades and has usually been associated with mild illness that includes symptoms of low-grade fever, headache, rash, myalgia, and arthralgia. Recently, WNV has spread rapidly across the Western hemisphere and is now the major vector-borne cause of viral encephalitis in the United States. By 2010, 3 million adults were estimated to have been infected with WNV in the United States, with nearly 13,000 cases of neuroinvasive disease, almost half of which occurred in adults greater than 60 years of age. In this age group, WNV infection can cause hepatitis, meningitis, and encephalitis, leading to paralysis, coma, and death. In 2012, 286 people in the United States died of WNV, according to the U.S. Centers for Disease Control and Prevention (CDC). Preliminary data for 2013 indicate over 1,200 cases of neuroinvasive disease

and 114 deaths due to WNV. During 2009–2018, a total of 21,869 confirmed or probable cases of WNV disease, including 12,835 (59%) WNV neuroinvasive disease cases, were reported to CDC from all 50 states, the District of Columbia, and Puerto Rico.

WNV presents a significant public health threat. This epidemiological trend of WNV suggests that the United States can expect periodic WNV outbreaks, underscoring the need for a safe and effective vaccine to protect at-risk populations, especially older adults.

WNV is also a significant worldwide public health threat. Starting in the mid-1990s, the frequency, severity, and geographic range of WNV outbreaks increased. The virus can be found throughout Africa, regions of Europe and the Middle East, West Asia, Australia, Canada, Venezuela, and the United States. Outbreak areas are typically found along major bird migratory routes, with the largest outbreaks having occurred in Greece, Israel, Russia, Romania, and the United States. In the approximately eighty (80) years since its discovery, the virus has propagated to a vast region of the globe and is now considered the most important causative agent of viral encephalitis worldwide.

No vaccine exists today to prevent WNV in humans. The methods and compositions of this invention provide a means for prevention of WNV infection by immunization with live attenuated, immunogenic viral vaccines against WNV.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Institute of Allergy and Infectious Diseases receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license in the prospective field of use that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent commercialization license. In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available. License applications submitted in response to this Notice will be presumed to contain business confidential information, and any release of information in these license applications will be made only as required and upon a request under the *Freedom of Information Act,* 5 U.S.C. 552.

Dated: September 7, 2021.

Surekha Vathyam,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2021–19566 Filed 9–9–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Certain Calcitriol Soft-Shell Capsules

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of certain Calcitriol soft-shell capsules. Based upon the facts presented, CBP has concluded in the final determination that the Calcitriol capsules would be products of a foreign country or instrumentality designated pursuant to CBP regulations for purposes of U.S. Government procurement.

DATES: The final determination was issued on August 27, 2021. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination no later than October 12, 2021.

FOR FURTHER INFORMATION CONTACT: Albena Peters, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade, at (202) 325–0321.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on August 27, 2021, CBP issued a final determination concerning the country of origin of Calcitriol capsules for purposes of Title III of the Trade Agreements Act of 1979. This final determination, HQ H319605, was issued at the request of the party-at-interest, under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the Calcitriol soft-shell capsules would be products of a foreign country or instrumentality designated pursuant to 19 U.S.C. 2511(b) for purposes of U.S. Government procurement. Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the **Federal Register** within 60 days of the date the final determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the **Federal Register**.

Dated: September 3, 2021.

Alice A. Kipel,

Executive Director, Regulations and Rulings, Office of Trade.

HQ H319605

August 27, 2021

OT:RR:CTF:VS H319605 AP

CATEGORY: Origin

Steven Lerner, Supply Chain Analyst, Sun Pharmaceutical Industries Ltd., 2 Independence Way, Princeton, NJ 08540

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. 2511); Subpart B, Part 177, CBP Regulations; Country of Origin of Calcitriol Capsules

Dear Mr. Lerner:

This is in response to your July 13, 2021 request, on behalf of Sun Pharmaceutical Industries Ltd. (''Sun Pharma''), for a final determination concerning the country of origin of Calcitriol soft-shell capsules. This request is being sought because the company wants to confirm eligibility of the merchandise for U.S. government procurement purposes under Title III of the Trade Agreements Act of 1979 (''TAA''), as amended (19 U.S.C. 2511 *et seq*.). Sun Pharma is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and 177.23(a).

FACTS:

Sun Pharma is among the largest specialty generic pharmaceutical companies in the world with more than 40 manufacturing facilities.[1] The company manufactures and imports Calcitriol [2] in the form of soft-shell capsules (0.25 mcg and 0.5 mcg). The

[1] *See* Sun Pharma, About Us, *https://sunpharma.com/about-us/* (last visited Aug. 2, 2021).

[2] The Calcitriol's National Drug Code Directory numbers are: 62756–967–83, 62756–967–88 and 62756–968–88.

Calcitriol capsules are used for vitamin D3 deficiency.

The raw ingredients originate from Switzerland. The active ingredient is Calcitriol USP. The inactive ingredients, which serve as coloring agents, preservatives, and fillers, consist of medium-chain triglycerides, butylated hydroxyanisole, butylated hydroxytoluene, noncrystallizing liquid sorbitol, glycerin, gelatin, methyl paraben, propylparaben, ferric oxide (red and yellow), titanium dioxide, triethyl citrate, isopropyl alcohol, and opacode black.

All of the Swiss ingredients are shipped to India where capsules are manufactured. During the manufacturing process, the Calcitriol is dissolved in medium chain triglycerides along with other inactive ingredients to form a clear drug solution. Gelatin is mixed along with purified water and other inactive ingredients under specific temperature and vacuumed with help of a gelatin melter. The resulting gelatin mass is fed into an encapsulation machine to form soft gelatin capsules with drug solution inside. The capsules pass into a tumble dryer to remove excess moisture. After the capsules are dried and polished, they are printed with food grade ink. Finally, the capsules are inspected, packed in containers, and labelled.

ISSUE:

What is the country of origin of the subject Calcitriol capsules for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

U.S. Customs and Border Protection (''CBP'') issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purposes of granting waivers of certain ''Buy American'' restrictions in U.S. law or practice for products offered for sale to the U.S. Government, pursuant to subpart B of Part 177, 19 CFR 177.21–177.31, which implements Title III of the TAA, as amended (19 U.S.C. 2511–2518).

CBP's authority to issue advisory rulings and final determinations is set forth in 19 U.S.C. 2515(b)(1), which states:

> For the purposes of this subchapter, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 2518(4)(B) of this title, an article is or would be a product of a foreign country or instrumentality designated pursuant to section 2511(b) of this title.

The rule of origin set forth under 19 U.S.C. 2518(4)(B) states:

> An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

A product of a foreign country or instrumentality designated pursuant to 19 U.S.C. 2511(b)(1), in pertinent part, is a country or instrumentality which is a party to the Agreement on Government Procurement (''GPA''), referred to in 19 U.S.C. 3511(d)(17), and as annexed to the World Trade Organization (''WTO'') Agreement.[3] Switzerland is a WTO GPA country.

Title 48, CFR Section 25.003 defines ''WTO GPA country end product'' as an article that:

> (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
>
> (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Sun Pharma asserts that no substantial transformation occurs in India because the identity of the raw materials originating from Switzerland remains intact. We concur. The processing of the Calcitriol into dosage form as soft gel capsules will not result in a substantial transformation. *See* Headquarters Ruling Letter (''HQ'') H284694, dated Aug. 22, 2017 (Dutch-origin bulk calcium acetate produced in the Netherlands and combined with inactive ingredients in India resulted in calcium acetate capsules originating from the Netherlands); HQ H233356, dated Dec. 26, 2012 (The blending of the mefenamic acid of Indian origin with inactive ingredients in the U.S. to form mefenamic acid capsules did not substantially transform the mefenamic acid from India). The Calcitriol is produced in Switzerland and is encapsulated in India. No change in name occurs in India because the product is referred to as ''Calcitriol'' both before and after encapsulation. The Calcitriol is the only active ingredient. After being mixed with the inactive ingredients serving as coloring agents, preservatives, and fillers, it retains its chemical and physical properties and is merely put into a dosage form in India. Finally, no change in use occurs in India because the Calcitriol retains the same predetermined medicinal use for vitamin D3 deficiency. As a result, no substantial transformation occurs during the encapsulation process in India and the country of origin of the final Calcitriol capsules remains Switzerland, a WTO GPA country, where the Calcitriol is produced.

Accordingly, the instant Calcitriol capsules would be products of a foreign country or instrumentality designated pursuant to 19 U.S.C. 2511(b)(1).

HOLDING:

Based on the facts presented, the country of origin of the Calcitriol capsules is Switzerland, a WTO GPA country, for purposes of U.S. Government procurement. Therefore, the Calcitriol soft-shell capsules would be products of a foreign country or instrumentality designated pursuant to 19 U.S.C. 2511(b)(1).

Notice of this final determination will be given in the **Federal Register**, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request pursuant to 19 CFR 177.31 that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days of publication of the **Federal Register** Notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

Alice A. Kipel,

Executive Director, Regulations and Rulings, Office of Trade.

[FR Doc. 2021–19515 Filed 9–9–21; 8:45 am]

BILLING CODE 9111–14–P

[3] *See* World Trade Organization, Agreement on Government Procurement, Parties, Observers and Accessions, *https://www.wto.org/english/tratop_e/gproc_e/memobs_e.htm* (last visited Aug. 2, 2021).

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 21–13]

Determination That Maintenance of Finding of March 29, 2021, Pertaining to Certain Disposable Gloves Produced in Malaysia, Is No Longer Necessary

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Determination that merchandise is no longer subject to 19 U.S.C. 1307.

SUMMARY: On March 29, 2021, U.S. Customs and Border Protection (CBP), with the approval of the Secretary of Homeland Security, issued a Finding that certain disposable gloves, were mined, produced, or manufactured in Malaysia by Top Glove Corporation Bhd with the use of convict, forced, or indentured labor, and were being, or were likely to be, imported into the United States. CBP has now determined, based upon additional information, that such merchandise is no longer being, or is likely to be, imported into the United States in violation of section 307 of the Tariff Act of 1930, as amended.

DATES: This determination applies to any merchandise described in this notice that is imported on or after September 10, 2021.

FOR FURTHER INFORMATION CONTACT: Juan M. Estrella, Chief, Operations Branch, Forced Labor Division, Trade Remedy Law Enforcement Directorate, Office of Trade, (202) 325–6087 or *forcedlabor@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307), ''[a]ll goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited.'' Under this section, ''forced labor'' includes ''all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily'' and includes forced or indentured child labor.

The CBP regulations promulgated under the authority of 19 U.S.C. 1307 are found at sections 12.42 through 12.45 of title 19, Code of Federal Regulations (CFR) (19 CFR 12.42–12.45). Among other things, these regulations allow any person outside of CBP to communicate his or her belief that a certain ''class of merchandise . . . is being, or is likely to be, imported into the United States [in violation of 19 U.S.C. 1307].'' 19 CFR 12.42(a), (b). Upon receiving such information, the Commissioner ''will cause such investigation to be made as appears to be warranted by the circumstances . . . .'' 19 CFR 12.42(d). CBP also has the authority to self-initiate an investigation. 19 CFR 12.42(a). If the Commissioner of CBP finds that the information available ''reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported,'' the Commissioner will order port directors to ''withhold release of any such merchandise pending [further] instructions.'' 19 CFR 12.42(e). After issuance of such a withhold release order, the covered merchandise will be detained by CBP for an admissibility determination and will be excluded unless the importer demonstrates that the merchandise was not made using labor in violation of 19 U.S.C. 1307. 19 CFR 12.43–12.44. The importer may also export the merchandise. 19 CFR 12.44(a).

These regulations also set forth the procedure for the Commissioner of CBP to issue a Finding when it is determined that the merchandise is subject to the provisions of 19 U.S.C. 1307. Pursuant to 19 CFR 12.42(f), if the Commissioner of CBP determines that merchandise within the purview of 19 U.S.C. 1307 is being, or is likely to be, imported into the United States, the Commissioner of CBP will, with the approval of the Secretary of the Department of Homeland Security (DHS), publish a Finding to that effect in the *Customs Bulletin* and in the **Federal Register**.[1] Under the authority of 19 CFR 12.44(b), CBP may seize and forfeit imported merchandise covered by a Finding.

On July 15, 2020, CBP issued a withhold release order on ''disposable gloves'' reasonably indicated to be manufactured by forced labor in Malaysia by Top Glove Corporation Bhd (Top Glove). Through its investigation, CBP determined that there was sufficient information to support a Finding that Top Glove was manufacturing disposable gloves with forced labor and that such merchandise was likely being imported into the United States. Pursuant to 19 CFR 12.42(f), CBP issued a Finding to that effect in the **Federal Register** on March 29, 2021 (86 FR 16380).[2]

Since that time, Top Glove has provided additional information to CBP, which CBP believes establishes by satisfactory evidence that the subject disposable gloves are no longer mined, produced, or manufactured in any part with forced labor. 19 CFR 12.42(g).

II. Determination

Pursuant to 19 U.S.C. 1307 and 19 CFR 12.42(g), it is hereby determined that the articles described below are no longer being mined, produced, or manufactured wholly or in part with the use of convict, forced, or indentured labor by Top Glove in Malaysia.

The subject articles are disposable gloves classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 3926.20.1020, 4015.11.0150, 4015.19.0510, 4015.19.0550, 4015.19.1010, 4015.19.1050, and 4015.19.5000, which are mined, produced, or manufactured by Top Glove in Malaysia.

Dated: September 3, 2021.

AnnMarie R. Highsmith,

Executive Assistant Commissioner, Office of Trade.

[FR Doc. 2021–19535 Filed 9–9–21; 8:45 am]

BILLING CODE 9111–14–P

[1] Although the regulation states that the Secretary of the Treasury must approve the issuance of a Finding, the Secretary of the Treasury delegated this authority to the Secretary of Homeland Security in Treasury Order No. 100–16 (68 FR 28322). In Delegation Order 7010.3, Section II.A.3, the Secretary of Homeland Security delegated the authority to issue a Finding to the Commissioner of CBP, with the approval of the Secretary of Homeland Security. The Commissioner of CBP, in turn, delegated the authority to make a Finding regarding prohibited goods under 19 U.S.C. 1307 to the Executive Assistant Commissioner, Office of Trade.

[2] The Finding was also published in the *Customs Bulletin and Decisions* (Vol. 55, No. 14, p. 13) on April 14, 2021.

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2676–21; DHS Docket No. USCIS–2019–0020]

RIN 1615–ZB83

Continuation of Documentation for Beneficiaries of Temporary Protected Status Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: Notice of Continuation of Temporary Protected Status and related documentation for Certain TPS beneficiaries.

SUMMARY: Through this notice, the Department of Homeland Security (DHS) announces actions to ensure its continued compliance with the preliminary injunction orders of the U.S. District Court for the Northern District of California in *Ramos, et al.* v. *Nielsen, et. al.,* No. 18–cv–01554 (N.D. Cal. Oct. 3, 2018) (''*Ramos*'') and the U.S. District Court for the Eastern District of New York in *Saget, et. al.,* v. *Trump, et. al.,* No. 18–cv–1599 (E.D.N.Y. Apr. 11, 2019) (''*Saget*''), and with the order of the U.S. District Court for the Northern District of California to stay proceedings in *Bhattarai* v. *Nielsen,* No. 19–cv–00731 (N.D. Cal. Mar. 12, 2019) (''*Bhattarai*''). Beneficiaries under the Temporary Protected Status (TPS) designations for El Salvador, Nicaragua, Sudan, Honduras, and Nepal will retain their TPS while the preliminary injunction in *Ramos* and the *Bhattarai* orders remain in effect, provided that their TPS is not withdrawn because of individual ineligibility. Beneficiaries under the TPS designation for Haiti will retain their TPS while either of the preliminary injunctions in *Ramos* or *Saget* remain in effect, provided that their TPS is not withdrawn because of individual ineligibility. However, on August 3, 2021, DHS issued a new designation for Haiti TPS, and in order to secure TPS pursuant to the new Haiti designation, eligible individuals must apply before the close of the registration period on Feb. 3, 2023. Eligible individuals are strongly encouraged to apply at the earliest practicable date, to ensure that their TPS continues beyond the court-ordered extensions and without any gaps in status. See Designation of Haiti for Temporary Protected Status. In addition, eligible individuals who do not register for the new TPS designation during the registration period, may be prohibited from filing a late initial registration during any subsequent extension of the designation if they do not meet certain conditions. This notice further provides information on the automatic extension of the validity of TPS-related Employment Authorization Documents (EADs); Notices of Action (Forms I–797); and Arrival/Departure Records (Forms I–94), (collectively ''TPS-related documentation''); for those beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal.

DATES: DHS is automatically extending the validity of TPS-related documentation for beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal through December 31, 2022, from the current expiration date of October 4, 2021.

FOR FURTHER INFORMATION CONTACT:

☐ You may contact Andria Strano, Acting Chief, Humanitarian Affairs Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, U.S. Department of Homeland Security, by mail at 5900 Capital Gateway Dr, Camp Springs, MD 20529–2140; or by phone at 800–375–5283.

☐ For further information on TPS, please visit the USCIS TPS web page at *www.uscis.gov/tps.*

☐ If you have additional questions about TPS, please visit *uscis.gov/tools.* Our online virtual assistant, Emma, can answer many of your questions and point you to additional information on our website. If you are unable to find your answers there, you may also call our U.S. Citizenship and Immigration Services (USCIS) Contact Center at 800–375–5283 (TTY 800–767–1833).

☐ Applicants seeking information about the status of their individual cases may check Case Status Online, available on the USCIS website at *www.uscis.gov,* or visit the USCIS Contact Center at *uscis.gov/contactcenter.*

☐ Further information will also be available at local USCIS offices upon publication of this notice.

SUPPLEMENTARY INFORMATION:

Table of Abbreviations

BIA—Board of Immigration Appeals
CFR—Code of Federal Regulations
DHS—U.S. Department of Homeland Security
EAD—Employment Authorization Document
EOIR—Executive Office for Immigration Review
FNC—Final Nonconfirmation
Form I–765—Application for Employment Authorization
Form I–797—Notice of Action
Form I–821—Application for Temporary Protected Status
Form I–9—Employment Eligibility Verification
Form I–912—Request for Fee Waiver
Form I–94—Arrival/Departure Record
Government—U.S. Government
IER—U.S. Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section
INA—Immigration and Nationality Act
SAVE—USCIS Systematic Alien Verification for Entitlements Program
Secretary—Secretary of Homeland Security
TNC—Tentative Nonconfirmation
TPS—Temporary Protected Status
TTY—Text Telephone
USCIS—U.S. Citizenship and Immigration Services

Background on TPS

- TPS is a temporary immigration status granted to eligible nationals of a country designated for TPS under the Immigration and Nationality Act (INA) or to eligible persons without nationality who last habitually resided in the designated country.
- During the TPS designation period, TPS beneficiaries are eligible to remain in the United States, may not be removed, and are authorized to obtain EADs so long as they continue to meet the requirements of TPS.
- TPS beneficiaries may travel abroad temporarily with the prior consent of DHS.
- The granting of TPS does not result in or lead to lawful permanent resident status.
- To qualify for TPS, beneficiaries must meet the eligibility standards at INA section 244(c)(1)–(2), 8 U.S.C. 1254a(c)(1)–(2).
- When the Secretary of Homeland Security (the Secretary) terminates a country's TPS designation, beneficiaries return to one of the following:
  - The same immigration status or category that they maintained before TPS, if any (unless that status or category has since expired or been terminated); or
  - Any other lawfully obtained immigration status or category they received while registered for TPS, as long as it is still valid on the date TPS terminates.

Purpose of This Action

This notice ensures DHS's continued compliance with various court orders issued by the federal district courts in the *Ramos, Bhattarai,* and *Saget* lawsuits that require DHS to maintain the TPS designations for El Salvador, Haiti, Sudan, Nicaragua, Honduras, and Nepal, as well as the TPS and TPS-related documentation for eligible affected beneficiaries.[1] The U.S. Court of Appeals for the Ninth Circuit vacated the district court's preliminary injunction in *Ramos* on September 14, 2020, holding that the plaintiffs' claims under the Administrative Procedures

[1] *See Ramos, et al.* v. *Nielsen, et. al.,* No. 18–cv–01554 (N.D. Cal. Oct. 3, 2018) (district court granted preliminary injunction against terminations of TPS for El Salvador, Haiti, Sudan, and Nicaragua) (''*Ramos*''); *Saget, et. al.,* v. *Trump, et. al.,* No. 18–cv–1599 (E.D.N.Y. Apr. 11, 2019) (district court granted preliminary injunction against termination of TPS for Haiti) (''*Saget*''); and *Bhattarai, et al.* v. *Nielsen, et al.,* No. 19–cv–00731 (N.D. Cal. Mar. 12, 2019) (district court stayed proceedings until *Ramos* appeal decided and approved parties' stipulation for continued TPS and issuance of TPS-related documentation to eligible, affected beneficiaries of TPS for Honduras and Nepal during the stay and pendency of the appeal) (''*Bhattarai*'').

Act were not subject to judicial review. However, the appellate order is not currently effective because the Ninth Circuit has not issued its ''mandate'' to the federal district court to carry out the order, as the plaintiffs' petition for rehearing en banc remains pending.[2] Therefore, the *Ramos* preliminary injunction remains in effect. In addition, the order of the district court in *Bhattarai* staying proceedings and approving the parties' stipulated agreement to continue TPS and TPS-related documentation for eligible beneficiaries from Nepal and Honduras remains in effect. The *Saget* district court order prohibiting the termination of TPS for Haiti also remains in effect while the decision is on appeal to the U.S. Court of Appeals for the Second Circuit. Affected TPS beneficiaries from the six countries will retain their status, provided they continue to meet all the individual requirements for TPS eligibility described in INA section 244(c) and 8 CFR 244. As necessary, DHS will publish future information in the **Federal Register** to ensure its compliance with any relevant court orders that may be issued after the date of this notice.

DHS initially published notices to ensure its compliance with the *Ramos* preliminary injunction on October 31, 2018 and March 1, 2019, and the *Bhattarai* order to stay proceedings on May 10, 2019. *See* 83 FR 54764; 84 FR 7103; and 84 FR 20647. The Department later published a notice to ensure its continued compliance with the combined orders in *Ramos, Bhattarai,* and *Saget* on November 4, 2019. That notice automatically extended certain TPS and TPS-related documentation through January 4, 2021 for all eligible TPS beneficiaries covered by the courts' orders. *See* 84 FR 59403. The Department last published a notice to ensure its continued compliance with these combined court orders on December 9, 2020. That notice again automatically extended certain TPS and TPS-related documentation through October 4, 2021 for all eligible TPS beneficiaries covered by the courts' orders. *See* 85 FR 79208. Through this **Federal Register** notice, DHS announces actions to ensure its continued compliance with the district court orders in these three lawsuits while those orders remain in effect.

The TPS designations for El Salvador, Nicaragua, and Sudan will remain in effect, as required by the *Ramos* district court order, so long as the preliminary injunction remains in effect. The 2011 TPS designation for Haiti will remain in effect, as required by the preliminary injunction orders in both *Ramos* and *Saget,* so long as either of those preliminary injunctions remain in effect. The TPS designations for Honduras and Nepal will remain in effect so long as the *Bhattarai* order staying proceedings and approving the parties' stipulated agreements continues in effect. Affected TPS beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal will retain their TPS and their TPS-related documentation will continue to be valid in accordance with the specific orders that affect the TPS designations regarding their individual countries, provided that the affected beneficiaries continue to meet all the individual requirements for TPS. *See* INA section 244(c)(3). *See also* 8 CFR 244.14. DHS will not terminate TPS for any of the affected countries pending final disposition of the *Ramos* appeal, including through any additional appellate channels in which relief may be sought, or by other orders of the court. Following consideration of current country conditions, the Secretary has already newly designated Haiti for TPS for eighteen months, allowing individuals covered by the *Ramos* and *Saget* injunctions as well as other eligible individuals to register for and maintain TPS through February 3, 2023.

DHS is further announcing it is automatically extending, through December 31, 2022, the validity of certain TPS-related documentation, as specified in this notice, for beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal provided that the affected beneficiaries remain individually eligible for TPS.

Automatic Extension of EADs Issued Under the TPS Designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal

Through this **Federal Register** notice, DHS automatically extends the validity of EADs listed in Table 1 below issued to beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal. Such beneficiaries may show their EADs to employers to demonstrate they have employment authorization and may choose to also show employers this **Federal Register** notice to explain that their TPS-Related Documentation has been automatically extended through December 31, 2022. This notice explains how TPS beneficiaries, their employers, and benefit-granting agencies may determine which EADs are automatically extended and how this affects the Form I–9, Employment Eligibility Verification; E-Verify; and USCIS Systematic Alien Verification for Entitlements (SAVE) processes. Additionally, a beneficiary under the TPS designation for any of these countries who has applied for a new EAD but who has not yet received his or her new EAD is covered by this automatic extension, provided that the EAD he or she possesses contains one of the expiration dates listed in Table 1 below.

TABLE 1—AFFECTED EADS

If an EAD has a category code of A–12 or C–19 and an expiration date of:	Then the validity of the EAD is extended through:
07/22/2017	12/31/2022
11/02/2017	12/31/2022
01/05/2018	12/31/2022
01/22/2018	12/31/2022
03/09/2018	12/31/2022
06/24/2018	12/31/2022
07/05/2018	12/31/2022
11/02/2018	12/31/2022
01/05/2019	12/31/2022
04/02/2019	12/31/2022
06/24/2019	12/31/2022
07/22/2019	12/31/2022
09/09/2019	12/31/2022
01/02/2020	12/31/2022
01/05/2020	12/31/2022
03/24/2020	12/31/2022
01/04/2021	12/31/2022
10/04/2021	12/31/2022

Automatic Extension of Forms I–94 and Forms I–797

Also through this **Federal Register** notice, DHS automatically extends the validity periods of the Forms I–94 and Forms I–797 listed in Table 2 below previously issued to beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal. These extensions apply only if the TPS beneficiary properly filed for re-registration during either the most recent DHS-announced registration period for their country, or any applicable previous DHS-announced re-registration periods for the beneficiary's country,[3] or has a re-registration

[2] *See Ramos, et al.,* v. *Wolf, et al.,* No. 18–16981 (9th Cir., September 14, 2020).

[3] El Salvador: July 8–Sept. 6, 2016, or Jan. 18–Mar. 19, 2018;

Haiti: Aug. 25–Oct. 26, 2015, May 24–July 24, 2017, or Jan. 18–Mar. 19, 2018;

Honduras: May 16–July 16, 2016; Dec. 15, 2017–Feb. 13, 2018 or June 5–Aug. 6, 2018;

Nepal: Oct. 26–Dec. 27, 2016 or May 22–July 23, 2018;

Nicaragua: May 16–July 15, 2016 or Dec. 15, 2017–Feb. 13, 2018;

Sudan: Jan. 25–March 25, 2016 or Oct. 11, 2017–Dec. 11, 2017.

application that remains pending. This notice does not extend the validity periods of Forms I–94 or Forms I–797 for any TPS beneficiary who failed to file for TPS re-registration during one of the applicable previous DHS-announced re-registration periods, or for whom a re-registration request has been denied. In addition, the extensions do not apply for any beneficiary from whom TPS has been withdrawn.

TABLE 2—AFFECTED FORMS I–94 AND I–797 [4]

Country	Beginning date of validity:	End date of validity:	Validity of forms I–94 and I–797 extended through:
El Salvador	Sept. 10, 2016	Mar. 9, 2018	12/31/2022
	Mar. 10, 2018	Sept. 9, 2019	12/31/2022
	Sept. 10, 2019	Oct. 4, 2021	12/31/2022
Haiti	Jan. 23, 2016	July 22, 2017	12/31/2022
	July 23, 2017	Jan. 22, 2018	12/31/2022
	Jan. 23, 2018	July 22, 2019	12/31/2022
	July 23, 2019	Oct. 4, 2021	12/31/2022
Honduras	July 6, 2016	Jan. 5, 2018	12/31/2022
	Jan. 6, 2018	July 5, 2018	12/31/2022
	July 6, 2018	Jan. 5, 2020	12/31/2022
	Jan. 6, 2020	Oct. 4, 2021	12/31/2022
Nepal	Dec. 25, 2016	June 24, 2018	12/31/2022
	June 25, 2018	June 24, 2019	12/31/2022
	June 25, 2019	Oct. 4, 2021	12/31/2022
Nicaragua	July 6, 2016	Jan. 5, 2018	12/31/2022
	Jan. 6, 2018	Jan. 5, 2019	12/31/2022
	Jan. 6, 2019	Oct. 4, 2021	12/31/2022
Sudan	May 3, 2016	Nov. 2, 2017	12/31/2022
	Nov. 3, 2017	Nov. 2, 2018	12/31/2022
	Nov. 3, 2018	Oct. 4, 2021	12/31/2022

Application Procedures

Current beneficiaries covered by the court orders that continue the TPS designations for El Salvador, Haiti, Honduras, Nepal, Nicaragua, and Sudan do not need to pay a fee or file any application, including Application for Employment Authorization (Form I–765), to maintain their TPS benefits through December 31, 2022 under this notice, provided that they have properly re-registered for TPS during either the most recent DHS-announced registration period for their country, or any applicable previous re-registration period described in Footnote 3. However, in order to secure TPS pursuant to the new Haiti designation, eligible individuals must apply before the close of the registration period on Feb. 3, 2023. Eligible individuals for the new TPS Haiti designation are strongly encouraged to apply at the earliest practicable date, to ensure that their TPS continues beyond the court-ordered extensions and without any gaps in status.

In addition, eligible individuals who do not register for the new TPS designation during the registration period, may be prohibited from filing a late initial registration during any subsequent extension of the designation if they do not meet certain conditions. See 8 CFR 244.2(f)(2).

TPS beneficiaries who have failed to re-register properly for TPS during any of these re-registration periods may still file an Application for Temporary Protected Status (Form I–821), but must demonstrate ''good cause'' for failing to re-register on time, as required by law. See INA section 244(c)(3)(C) (TPS beneficiary's failure to register without good cause in form and manner specified by DHS is ground for TPS withdrawal); 8 CFR 244.17(b) and Form I–821 instructions.[5]

Any currently eligible beneficiary who does not presently have a pending EAD application under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras or Nepal may file Form I–765 with appropriate fee in order to obtain a new EAD with a printed expiration date of December 31, 2022.

Possible Future Actions

In order to comply with statutory requirements for TPS while the district courts' orders or any superseding court order concerning the beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal remain in effect, DHS may require these beneficiaries to re-register and will announce the re-registration procedures in a future **Federal Register** notice. DHS has the authority to conduct TPS re-registration in accordance with INA section 244(c)(3)(C) and 8 CFR 244.17. Through the re-registration process, which is generally conducted every twelve to eighteen months while a country is designated for TPS, USCIS determines whether each TPS beneficiary is continuing to maintain individual eligibility for TPS, including but not limited to, the requirements related to disqualifying criminal or security issues. See id.; INA section 244(c)(2); 8 CFR 244.2, 244.3, and 244.4 (describing individual TPS eligibility requirements, including mandatory criminal and security bars).

The Secretary has already newly designated Haiti for TPS for eighteen months through February 3, 2023. 86 FR 41863. Eligible Haitian nationals (and individuals having no nationality who last habitually resided in Haiti) who wish to receive or continue their existing TPS through that date are

[4] Your Forms I–94 and I–797 may show a different beginning date of validity than those listed here if you were a late initial filer (LIF) at the time because the forms would have the date of approval of your LIF application for TPS. As long as they bear an end date of validity listed in this chart, then they are automatically extended by this Notice.

[5] An applicant for TPS Haiti who applies under the procedures announced in the Notice regarding the new TPS designation of Haiti at 86 FR 41863 (Aug. 3, 2021) is an initial applicant and does not have to demonstrate ''good cause'' for failing to re-register under prior TPS Haiti designations.

encouraged to submit their applications for TPS by following the instructions in the **Federal Register** notice, Designation of Haiti for Temporary Protected Status, at 86 FR 41863. Failure to submit an application under the new designation of Haiti, however, does not affect the continuation of the validity of the TPS and TPS documents through December 31, 2022 as described in this notice.

The Government has appealed both the *Ramos* and *Saget* preliminary injunctions. The U.S. Court of Appeals for the Ninth Circuit ruled for the Government and vacated the *Ramos* preliminary injunction on September 14, 2020. However, the preliminary injunction remains in effect because the appellate court has not issued its directive (*i.e.,* the mandate) to the district court to implement the panel's decision due to the pendency of the plaintiffs' petition for rehearing en banc. Should the Government ultimately prevail in its challenge to the *Ramos* preliminary injunction, and absent any further change in the TPS designations for Nicaragua, Sudan, Honduras, and Nepal, the Secretary's determination to terminate TPS for those countries would take effect no earlier than 120 days from the issuance of any appellate mandate to the district court. Absent any further change in the TPS designation for El Salvador, the Secretary's determination to terminate TPS for that country will take effect no earlier than 365 days from the issuance of any appellate mandate to the *Ramos* district court. DHS provides this additional time for El Salvador TPS beneficiaries in part because there are almost 100,000 more such beneficiaries than in the combined TPS beneficiary populations of all the other five countries covered by this notice.[6] The additional period of 245 days beyond 120 days would permit an orderly transition for beneficiaries of TPS from El Salvador as they return to their homeland. If the Government prevails in its appeals, DHS will also continue to monitor the circumstances of the affected beneficiaries under the other five TPS country designations covered by this notice. *See* INA section 244(d)(3).

To the extent that a **Federal Register** notice has automatically extended TPS-related documentation beyond 120 days from the issuance of any appellate mandate to the District Court, DHS reserves the right to issue a subsequent **Federal Register** notice announcing an expiration date for the documentation that corresponds to the last day of the 120-day period for Sudan, Nicaragua, Honduras, and Nepal. Should the Government move to vacate the *Bhattarai* order to stay proceedings in light of an appellate decision affirming the preliminary injunction in *Ramos* that suggests a basis on which to distinguish the determinations to terminate the TPS designations for Honduras and Nepal from the TPS terminations at issue in *Ramos,* TPS will remain in effect for Honduras and Nepal for at least 180 days following an order of the District Court vacating the stay in proceedings.

The Secretary has announced a new 18-month designation of Haiti for TPS, which continues through February 3, 2023. Application procedures for TPS under this new Haiti designation, including for individuals who currently have TPS pursuant to the court orders, are provided in the notice published at 86 FR 41863.

Additional Notes

Nothing in this notice affects DHS's ongoing authority to determine on a case-by-case basis whether a TPS beneficiary continues to meet the eligibility requirements for TPS described in INA section 244(c) and the implementing regulations in part 244 of Title 8 of the Code of Federal Regulations.

Notice of Compliance with the ''Order Enjoining the Implementation and Enforcement of Determinations to Terminate the TPS Designations for El Salvador, Haiti, Nicaragua, and Sudan'' in *Ramos,* the ''Order Enjoining the Implementation of Enforcement of Determination to Terminate the TPS Designation of Haiti'' in *Saget,* and the ''Order to Stay Proceedings and Agreement to Stay the Determinations to Terminate the TPS Designations for Honduras and Nepal'' in *Bhattarai*

The previously announced determinations to terminate the existing designations of TPS for El Salvador, Nicaragua, and Sudan[7] will not be implemented or enforced unless and until the district court's order in *Ramos* is reversed and that reversal becomes final. The previously announced determination to terminate the 2011 designation of TPS for Haiti will not be implemented or enforced unless and until the district court's order in *Saget* is reversed and the reversal becomes final.[8] As required by the order to stay proceedings in *Bhattarai,* DHS will not implement or enforce the previously announced determinations to terminate the existing TPS designations for Honduras and Nepal[9] unless and until the district court's order in *Ramos* enjoining implementation and enforcement of the determinations to terminate the TPS designations for El Salvador, Haiti, Nicaragua, and Sudan is reversed and that reversal becomes final for some or all of the affected countries, or by other order of the court. Any termination of TPS-related documentation for beneficiaries under the TPS designations for Nicaragua, Sudan, Honduras, and Nepal will go into effect no earlier than 120 days, and no earlier than 365 days for beneficiaries under the TPS designation for El Salvador, following the issuance of any mandate to the district court, as described in the ''Possible Future Action'' section of this **Federal Register** notice.[10]

In further compliance with the still-valid district court orders, DHS is publishing this notice automatically extending the validity of the TPS-related documentation specified in the Supplementary Information section of this notice through December 31, 2022, for eligible beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal. DHS will continue to issue notices that will automatically extend TPS-related documentation for all affected beneficiaries under the TPS designations for El Salvador, Nicaragua, Sudan, Honduras and Nepal, so long as the *Ramos* preliminary injunction and *Bhattarai* order to stay proceedings remain in place; for Haiti as long as the *Ramos* or *Saget* preliminary injunctions remain in place; or by other order of the court. However, should compliance with the *Ramos, Bhattarai,* and/or *Saget* court orders remain necessary, DHS may announce periodic re-registration procedures for eligible TPS beneficiaries in accordance with the INA and DHS

[6] As of December 31, 2019, the number of TPS beneficiaries covered under the affected designations were: El Salvador 247,412; Haiti 55,218; Nicaragua 4,409; Sudan 771; Honduras 79,290; Nepal 14,549.

[7] *See* Termination of the Designation of El Salvador for Temporary Protected Status, 83 FR 2654 (Jan. 18, 2018); Termination of the Designation of Nicaragua for Temporary Protected Status, 82 FR 59636 (Dec. 15, 2017); Termination of the Designation of Sudan for Temporary Protected Status, 82 FR 47228 (Oct. 11, 2017).

[8] *See* Termination of the Designation of Haiti for Temporary Protected Status, 83 FR 2648 (Jan. 18, 2018).

[9] *See* Termination of the Designation of Honduras for Temporary Protected Status, 83 FR 26074 (June 5, 2018); Termination of the Designation of Nepal for Temporary Protected Status, 83 FR 23705 (May 22, 2018).

[10] An additional provision in the *Bhattarai* Order to Stay Proceedings states that if the preliminary injunction in *Ramos* is upheld, but the Government moves to vacate the *Bhattarai* Order based on reasons for distinguishing the terminations of TPS for Honduras and Nepal from those under the injunction in *Ramos,* TPS will remain in effect for Honduras and Nepal for at least 180 days following an order of the District Court vacating its stay of proceedings order.

regulations. DHS further continues its commitment to a transition period, as described above.

All TPS beneficiaries must continue to maintain their TPS eligibility by meeting the requirements for TPS in INA section 244(c) and 8 CFR part 244. DHS will continue to adjudicate any pending TPS re-registration and pending late initial applications for affected beneficiaries under the TPS designations for El Salvador, Nicaragua, Sudan, Honduras, and Nepal. Nationals of Haiti (and individuals having no nationality who last habitually resided in Haiti) are encouraged to apply under the new designation for Haiti announced at 86 FR 41863.[11] DHS will also continue to make appropriate individual TPS withdrawal decisions in accordance with existing procedures if an individual no longer maintains TPS eligibility. DHS will take appropriate steps to continue its compliance with the orders, and with all statutory requirements.

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

Approved Documentation To Demonstrate Continuation of Lawful Status and TPS-Related Employment Authorization

- Documentation automatically extended through this **Federal Register** notice dated September 10, 2021.

○ Certain TPS-related documentation, including EADs, of affected beneficiaries under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, and Nepal, that are automatically extended through this **Federal Register** notice through December 31, 2022.

○ Regardless of their country of birth, a beneficiary granted TPS under the designation for El Salvador, Haiti, Nicaragua, Sudan, Honduras, or Nepal may show his or her EAD that has been automatically extended to his or her employer to demonstrate identity and continued TPS-related employment eligibility to meet Employment Eligibility Verification (Form I–9) requirements. A beneficiary granted TPS under a designation for one of these countries may also choose to show an employer this **Federal Register** notice, which explains that his or her EAD has been automatically extended.

○ As evidence of his or her lawful status, a TPS beneficiary may show his or her EAD that has been automatically extended, or Form I–94, or Form I–797, along with a copy of this **Federal Register** notice, to law enforcement, federal, state, and local government agencies, and private entities.

- Unexpired EAD.
- Alternatively, such a TPS beneficiary may choose to show other acceptable documents that are evidence of identity and employment eligibility as described in the instructions to Form I–9.

Am I eligible to receive an automatic extension of my current EAD using this ***Federal Register*** *notice?*

Yes. Provided that you currently have a TPS-related EAD with the specified expiration dates below, this notice automatically extends your EAD as stated in Table 3 below.

TABLE 3—AFFECTED EADS

If your EAD has category code of A–12 or C–19 and an expiration date of:	Then this **Federal Register** notice extends your EAD through:
07/22/2017	12/31/2022
11/02/2017	12/31/2022
01/05/2018	12/31/2022
01/22/2018	12/31/2022
03/09/2018	12/31/2022
06/24/2018	12/31/2022
07/05/2018	12/31/2022
11/02/2018	12/31/2022
01/05/2019	12/31/2022
04/02/2019	12/31/2022
06/24/2019	12/31/2022
07/22/2019	12/31/2022
09/09/2019	12/31/2022
01/02/2020	12/31/2022
01/05/2020	12/31/2022
03/24/2020	12/31/2022
01/04/2021	12/31/2022
10/04/2021	12/31/2022

When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I–9?

You can find the Lists of Acceptable Documents on the third page of Form I–9 as well as the Acceptable Documents web page at *www.uscis.gov/i-9-central/acceptable-documents.* Employers must complete Form I–9 to verify the identity and employment authorization of all new employees. Within three days of hire, employees must present acceptable documents to their employers as evidence of identity and employment authorization to satisfy Form I–9 requirements.

You may present any documentation from List A (which provides evidence of both your identity and employment authorization) or documentation from List B (which provides evidence of your identity) together with documentation from List C (which provides evidence of your employment authorization), or you may present an acceptable receipt as described in the Form I–9 instructions. Employers may not reject a document based on a future expiration date. You can find additional information about Form I–9 on the I–9 Central web page at *www.uscis.gov/I-9Central.*

An EAD is an acceptable document under List A. See the section ''How do my employer and I complete Form I–9 using my automatically extended employment authorization for a new job?'' of this **Federal Register** notice for further information. If your EAD has one of the expiration dates in Table 4 and states A–12 or C–19 under Category, it has been extended automatically by virtue of this **Federal Register** notice, and you may choose to present it to your employer as proof of identity and employment eligibility for Form I–9 through December 31, 2022, unless your TPS has been withdrawn or your request for TPS has been denied.

[11] As noted above, the Department of Homeland Security (DHS) announced that the Secretary of Homeland Security (Secretary) has newly designated Haiti for TPS for eighteen months, effective August 3, 2021 through February 3, 2023. This designation allows eligible Haitian nationals (and individuals having no nationality who last habitually resided in Haiti) who have continuously resided in the United States since July 29, 2021, and who have been continuously physically present in the United States since August 3, 2021 to apply for TPS. TPS beneficiaries whose TPS has been continued pursuant to court orders, as described in 85 FR 79208 (Dec. 9, 2020), should newly apply for TPS following the instructions in **Federal Register** Notice Designation of Haiti for Temporary Protected Status at 86 FR 41863.

TABLE 4—AFFECTED EADS AND FORM I–9

If your EAD has category code of A–12 or C–19 and an expiration date of:	Enter this date in Section 1 of Form I–9:	Your employer must reverify your employment authorization by:
07/22/2017	12/31/2022	01/01/2023
11/02/2017	12/31/2022	01/01/2023
01/05/2018	12/31/2022	01/01/2023
01/22/2018	12/31/2022	01/01/2023
03/09/2018	12/31/2022	01/01/2023
06/24/2018	12/31/2022	01/01/2023
07/05/2018	12/31/2022	01/01/2023
11/02/2018	12/31/2022	01/01/2023
01/05/2019	12/31/2022	01/01/2023
04/02/2019	12/31/2022	01/01/2023
06/24/2019	12/31/2022	01/01/2023
07/22/2019	12/31/2022	01/01/2023
09/09/2019	12/31/2022	01/01/2023
01/02/2020	12/31/2022	01/01/2023
01/05/2020	12/31/2022	01/01/2023
03/24/2020	12/31/2022	01/01/2023
01/04/2021	12/31/2022	01/01/2023
10/04/2021	12/31/2022	01/01/2023

What documentation may I present to my employer for Form I–9 if I am already employed but my current TPS-related EAD is set to expire?

Even though your EAD has been automatically extended, your employer is required by law to ask you about your continued employment authorization. Your employer may need to re-inspect your automatically extended EAD to check the Card Expires date and Category code if your employer did not keep a copy of your EAD when you initially presented it. Once your employer has reviewed the Card Expires date and Category code, your employer should update the EAD expiration date in Section 2 of Form I–9. *See* the section, ''What updates should my current employer make to Form I–9 if my EAD has been automatically extended?'' of this **Federal Register** notice for further information. You may show this **Federal Register** notice to your employer to explain what to do for Form I–9 and to show that your EAD has been automatically extended through December 31, 2022 as indicated in the above chart, but you are not required to do so.

The last day of the automatic extension for your EAD is December 31, 2022. On or before you start work on January 1, 2023, your employer is required by law to reverify your employment authorization in Section 3 of Form I–9. By that time, you must present any document from List A or any document from List C on Form I–9, Lists of Acceptable Documents, or an acceptable List A or List C receipt described in the Form I–9 instructions to reverify employment authorization.

Your employer may not specify which List A or List C document you must present and cannot reject an acceptable receipt.

Can I obtain a new EAD?

Yes, if you remain eligible for TPS and apply for a new EAD, you can obtain a new EAD. However, you do not need to apply for a new EAD in order to benefit from this automatic extension. If you are a beneficiary under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, or Nepal and want to obtain a new EAD valid through December 31, 2022, then you must file Form I–765 and pay the associated fee (or obtain a fee waiver). If you do not want a new EAD, you do not have to file Form I–765 or pay the Form I–765 fee. If you do not want to request a new EAD now, you may file Form I–765 at a later date and pay the fee (or request a fee waiver), provided that you still have TPS or a pending TPS application.

If you are unable to pay the application fee and/or biometric services fee, you may request a fee waiver by submitting a Request for Fee Waiver (Form I–912). For more information on the application forms and fees for TPS, please visit the USCIS TPS web page at *www.uscis.gov/tps.*

If you have a Form I–821 and/or Form I–765 application that is still pending under the TPS designations for El Salvador, Haiti, Nicaragua, Sudan, Honduras, or Nepal, then you should not file either application again. If your pending Form I–821 is approved, you will be issued Forms I–797 and I–94 through December 31, 2022. Similarly, if you have a pending TPS-related Form I–765 that is approved, your new EAD will be valid through December 31, 2022. Your TPS itself continues as long as the preliminary injunction impacting your country's TPS designation remains in effect and in accordance with any relevant future **Federal Register** notices that DHS may issue respecting your country's TPS designation, or until your TPS is finally withdrawn for individual ineligibility under INA section 244(c), or the applicable TPS designation is terminated as discussed in the ''Possible Future Action'' section of this **Federal Register** notice.

Can my employer require that I provide any other documentation to prove my status, such as proof of my citizenship from El Salvador, Haiti, Nicaragua, Sudan, Honduras, or Nepal?

No. When completing Form I–9, including reverifying employment authorization, employers must accept any documentation that appears on the Form I–9 Lists of Acceptable Documents that reasonably appears to be genuine and that relates to you, or an acceptable List A, List B, or List C receipt. Employers need not reverify List B identity documents. Therefore, employers may not request proof of citizenship or proof of re-registration for TPS when completing Form I–9 for new hires or reverifying the employment authorization of current employees. If you present an EAD that has been automatically extended, employers should accept it as a valid List A document, so long as the EAD reasonably appears to be genuine and relates to the employee. Refer to the ''Note to Employees'' section of this **Federal Register** notice for important

information about your rights if your employer rejects lawful documentation, requires additional documentation, or otherwise discriminates against you based on your citizenship or immigration status, or your national origin.

How do my employer and I complete Form I–9 using my automatically extended employment authorization for a new job?

See Table 4 in the question ''When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I–9?'' to determine if your EAD has been automatically extended.

1. For Section 1, you should:

a. Check ''An alien authorized to work until'' and enter December 31, 2022, as the expiration date; and

b. Enter your USCIS number or A-Number where indicated. (Your EAD or other document from DHS will have your USCIS number or A-Number printed on it; the USCIS number is the same as your A-Number without the A prefix).

2. For Section 2, employers should:

a. Determine if your EAD has been automatically extended by using Table 4 in the question ''When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I–9?''

b. Write in the document title;

c. Enter the issuing authority;

d. Provide the document number; and

e. Write December 31, 2022, as the expiration date.

On or before the start of work on January 1, 2023, employers must reverify the employee's employment authorization in Section 3 of Form I–9.

What updates should my current employer make to Form I–9 if my employment authorization has been automatically extended?

If you presented a TPS-related EAD that was valid when you first started your job and your EAD has now been automatically extended, your employer may need to re-inspect your current EAD if they do not have a copy of the EAD on file. See Table 4 in the question ''When hired, what documentation may I show to my employer as evidence of employment authorization and identity when completing Form I–9?'' to determine if your EAD has been automatically extended.

If your employer determines that your EAD has been automatically extended, your employer should update Section 2 of your previously completed Form I–9 as follows:

a. Write EAD EXT and December 31, 2022, as the last day of the automatic extension in the Additional Information field; and

b. Initial and date the correction.

Note: This is not considered a reverification. Employers should not complete Section 3 until either this notice's automatic extension of EADs has ended, or the employee presents a new document to show continued employment authorization, whichever is sooner. By January 1, 2023, when the employee's automatically extended EAD has expired, employers are required by law to reverify the employee's employment authorization in Section 3.

If I am an employer enrolled in E-Verify, how do I verify a new employee whose EAD has been automatically extended?

Employers may create a case in E-Verify for a new employee by entering the number from the Document Number field on Form I–9 into the document number field in E-Verify. Employers should enter December 31, 2022, as the expiration date for EADs that have been automatically extended under this **Federal Register** notice.

If I am an employer enrolled in E-Verify, what do I do when I receive a ''Work Authorization Documents Expiration'' alert for an automatically extended EAD?

E-Verify has automated the verification process for TPS-related EADs that are automatically extended. If you have employees who provided a TPS-related EAD when they first started working for you, you will receive a ''Work Authorization Documents Expiring'' case alert when the auto-extension period for this EAD is about to expire. On or before this employee starts work on January 1, 2023, you must reverify his or her employment authorization in Section 3 of Form I–9. Employers may not use E-Verify for reverification.

If I already have TPS for Haiti, do I need to apply under the new TPS designation for Haiti?

TPS beneficiaries under the Haiti designation whose TPS has been continued pursuant to court orders, and as described in this notice, are strongly encouraged to apply for TPS before the close of the registration period on Feb. 3, 2023, following the instructions in the August 3, 2021 **Federal Register** notice regarding the new Designation of Haiti for Temporary Protected Status at 86 FR 41863. Eligible individuals are strongly encouraged to apply at the earliest practicable date, to ensure that their TPS continues beyond the court-ordered extensions and without any gaps in status. Eligible individuals who do not register for the new TPS designation during the registration period may be prohibited from filing a late initial registration during any subsequent extension of the designation if they do not meet certain conditions. See 8 CFR 244.2(f)(2).

If you are found eligible for TPS under the new Haiti designation, your TPS will continue through February 3, 2023, even if the current court orders in *Ramos* and *Saget* that continue TPS are no longer in effect.

Note to All Employers

Employers are reminded that the laws requiring proper employment eligibility verification and prohibiting unfair immigration-related employment practices remain in full force. This **Federal Register** notice does not supersede or in any way limit applicable employment verification rules and policy guidance, including those rules setting forth reverification requirements. For general questions about the employment eligibility verification process, employers may call USCIS at 888–464–4218 (TTY 877–875–6028) or email USCIS at *I9Central@uscis.dhs.gov.* USCIS accepts calls and emails in English and many other languages. For questions about avoiding discrimination during the employment eligibility verification process (Form I–9 and E-Verify), employers may call the U.S. Department of Justice's Civil Rights Division, Immigrant and Employee Rights Section (IER) Employer Hotline at 800–255–8155 (TTY 800–237–2515). IER offers language interpretation in numerous languages. Employers may also email IER at *IER@usdoj.gov.*

Note to Employees

For general questions about the employment eligibility verification process, employees may call USCIS at 888–897–7781 (TTY 877–875–6028) or email USCIS at *I-9Central@uscis.dhs.gov.* USCIS accepts calls in English, Spanish, and many other languages. Employees or applicants may also call the IER Worker Hotline at 800–255–7688 (TTY 800–237–2515) for information regarding employment discrimination based upon citizenship, immigration status, or national origin, including discrimination related to Form I–9 and E-Verify. The IER Worker Hotline provides language interpretation in numerous languages.

To comply with the law, employers must accept any document or combination of documents from the Lists of Acceptable Documents if the documentation reasonably appears to be genuine and to relate to the employee,

or an acceptable List A, List B, or List C receipt as described in the Form I–9 instructions. Employers may not require extra or additional documentation beyond what is required for Form I–9 completion. Further, employers participating in E-Verify who receive an E-Verify case result of ''Tentative Nonconfirmation'' (TNC) must promptly inform employees of the TNC and give such employees an opportunity to contest the TNC. A TNC case result means that the information entered into E-Verify from an employee's Form I–9 differs from records available to DHS.

Employers may not terminate, suspend, delay training, withhold or lower pay, or take any other adverse action against an employee because of the TNC while the case is still pending with E-Verify. A Final Nonconfirmation (FNC) case result is received when E-Verify cannot verify an employee's employment eligibility. An employer may terminate employment based on a case result of FNC. Work-authorized employees who receive an FNC may call USCIS for assistance at 888–897–7781 (TTY 877–875–6028). For more information about E-Verify-related discrimination or to report an employer for discrimination in the E-Verify process based on citizenship, immigration status, or national origin, contact IER's Worker Hotline at 800–255–7688 (TTY 800–237–2515). Additional information about proper nondiscriminatory Form I–9 and E-Verify procedures is available on the IER website at *www.justice.gov/ier* and on the USCIS and E-Verify websites at *www.uscis.gov/i-9-central* and *www.e-verify.gov.*

Note Regarding Federal, State, and Local Government Agencies (Such as Departments of Motor Vehicles)

For Federal purposes, TPS beneficiaries presenting an automatically extended EAD as referenced in this **Federal Register** notice do not need to show any other document, such as an I–797C Notice of Action receipt notice or this **Federal Register** notice, to prove that they qualify for this extension. However, while federal government agencies must follow the guidelines laid out by the federal government, state and local government agencies establish their own rules and guidelines when granting certain benefits. Each state may have different laws, requirements, and determinations about what documents you need to provide to prove eligibility for certain benefits. Whether you are applying for a federal, state, or local government benefit, you may need to provide the government agency with documents that show you are a TPS beneficiary, show you are authorized to work based on TPS or other status, and/or that may be used by DHS to determine whether you have TPS or other immigration status. Examples of such documents are:

- Your current EAD;
- Your automatically extended EAD with a TPS category code of A–12 or C–19 and an expiration date shown in Table 3 in the question ''Am I eligible to receive an automatic extension of my current EAD using this **Federal Register** notice?''; or
- Your Form I–94, Arrival/Departure Record or Form I–797 as shown in Table 2.

Check with the government agency regarding which document(s) the agency will accept.

Some benefit-granting agencies use the USCIS Systematic Alien Verification for Entitlements Program (SAVE) program to confirm the current immigration status of applicants for public benefits. While SAVE can verify when an individual has TPS, each agency's procedures govern whether they will accept an unexpired EAD, Form I–797, or Form I–94, Arrival/Departure Record. If an agency accepts the type of TPS-related document you are presenting, such as an EAD, the agency should accept your automatically extended TPS-related document, regardless of your country of birth. It may assist the agency if you:

a. Present the agency with a copy of this **Federal Register** notice showing the extension of TPS-related documentation, in addition to your most recent TPS-related document with your A-Number, USCIS number or Form I–94 number;

b. Explain that SAVE will be able to verify the continuation of your TPS using this information; and

c. Ask the agency to initiate a SAVE query with your information and follow through with additional verification steps, if necessary, to receive a final SAVE response verifying your TPS and TPS-related benefits.

You can also ask the agency to look for SAVE notices or contact SAVE if they have any questions about your immigration status or automatic extension of TPS-related documentation. In most cases, SAVE provides an automated electronic response to benefit-granting agencies within seconds, but, occasionally, verification can be delayed.

You can check the status of your SAVE verification by using CaseCheck at *save.uscis.gov/casecheck/*. CaseCheck is a free service that lets you follow the progress of your SAVE verification case using your date of birth and one immigration identifier number (A-Number, USCIS number, or Form I–94 number) or Verification Case Number). If an agency has denied your application based solely or in part on a SAVE response, the agency must offer you the opportunity to appeal the decision in accordance with the agency's procedures. If the agency has received and acted upon or will act upon a SAVE verification case and you do not believe the SAVE response is correct, the SAVE website, *http://www.uscis.gov/save, has* information on how to correct or update your immigration record, make an appointment, or submit a written request to correct records.

[FR Doc. 2021–19617 Filed 9–9–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6276–N–01]

Rental Assistance Demonstration: Post-Conversion Replacement of Units Under a PBV Housing Assistance Payment Contract

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner and Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice establishes the process by which assisted units under a Project Based Voucher (PBV) Section 8 Housing Assistance Payment (HAP) contract originally executed through a conversion under the Rental Assistance Demonstration (RAD) can be replaced in the event that the original units would be unavailable for occupancy due to a proposed demolition and reconstruction of the units, as a result of natural disaster, or other causes.

DATES: This notice is effective on September 10, 2021.

ADDRESSES: Interested persons are invited to submit questions or comments electronically to *rad@hud.gov.*

FOR FURTHER INFORMATION CONTACT: To assure a timely response, please direct requests for further information electronically to the email address *rad@hud.gov.* Written requests may also be directed to the following address: Office of Housing—Office of Recapitalization, Department of Housing and Urban Development, 451 7th Street SW, Room 6230, Washington, DC 20410. The Office of Recapitalization phone number is (202) 708–0001.

SUPPLEMENTARY INFORMATION:

1. Replacement of Units Under a PBV Section 8 Housing Assistance Payment Contract

a. Background

The RAD statute [1] authorizes the conversion of properties assisted under the public housing program to assistance under project-based Section 8 assistance in order to preserve and improve the housing. The statute includes various provisions envisioning the long-term preservation of the assisted units: HUD must require the ''substantial conversion of assistance,'' only permitting a de minimis reduction in assisted units; properties must be placed under long-term assistance contracts; upon expiration of the initial contract and any renewal contract the public housing authority (PHA) shall offer and the owner of the property shall accept renewal of the contract; a new Use Agreement must be recorded on the land; and the assistance may be transferred to a new site at or after conversion.

b. When RAD Units Become Unavailable for Occupancy

In the event that the property placed under a RAD PBV HAP contract through the conversion of assistance from public housing becomes unavailable for occupancy, and in order to continue the effective conversion of assistance of such properties, HUD finds it necessary to facilitate the replacement of assisted units under new assistance contracts under the same terms and conditions established in the original RAD PBV HAP contract or any renewal contract. Notably, RAD already includes a provision permitting the transfer of assistance to a new site. By this notice, HUD is supplementing the provision to transfer assistance by providing a mechanism for Public Housing Agencies (PHAs) to enter into a RAD Interim Agreement and, subsequently, a new RAD PBV HAP contract when a direct transfer of the HAP contract to new, eligible units is not possible and there would be a temporary period when a HAP contract is not in effect. This might occur when, for example:

- The owner adequately justifies a specific and well-developed redevelopment plan that requires the units to be unavailable for occupancy while the PHA is replacing the units on-site; or
- An unforeseen event (such as a natural disaster) renders the units uninhabitable.

In such circumstances, the owner must continue to comply with all applicable fair housing and civil rights requirements, which include the obligations under Section 504 to provide mobility and sensory accessible units to tenants with disabilities who require those features and provide tenants reasonable accommodations, and the Uniform Relocation Act as applicable.

c. RAD Interim Agreement

During any period when a normal RAD PBV HAP contract cannot reasonably remain in force and is terminated, under conditions that HUD may establish, including for the protection of residents, HUD, the PHA, and the owner as applicable would enter into an Interim Agreement that provides the authority to carry forth the RAD requirements to the RAD PBV HAP contract that will cover the replacement units. The Interim Agreement would be executed prior to any termination of the original RAD PBV HAP contract and would implement the transition of the rental assistance from the RAD PBV HAP contract and ultimately to the replacement RAD PBV HAP contract. It would preserve the authority for the RAD PBV rental assistance to commence under the replacement RAD PBV contract. Further, the Interim Agreement would set forth any applicable development requirements and the conditions which must be met before the replacement RAD PBV HAP Contract can be executed.

II. Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implemented section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for inspection at HUD's Funding Opportunities web page at: *https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo/fundingopps.*

Dominique Blom,

General Deputy Assistant Secretary for Public and Indian Housing.

Lopa Kolluri,

Principal Deputy Assistant Secretary for Housing.

[FR Doc. 2021–19513 Filed 9–9–21; 8:45 am]

BILLING CODE 4210–67–P

[1] Section 237 of Title II, Division L, Transportation, Housing and Urban Development, and Related Agencies, of the Consolidated Appropriations Act, 2012 (Pub. L. 112–74). The RAD statutory requirements were amended by the Consolidated Appropriations Act, 2014 (Pub. L. 113–76, signed January 17, 2014), the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235, signed December 16, 2014), the Consolidated Appropriations Act, 2016 (Pub. L. 114–113, signed December 18, 2015), the Consolidated Appropriations Act, 2017 (Pub. L. 115–31, signed May 4, 2017), and the Consolidated Appropriations Act, 2018 (Pub. L. 115–141, signed March 23, 2018).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2021–0051; FXIA16710900000–212–FF09A30000]

Endangered Species Act, Marine Mammal Protection Act, and Wild Bird Protection Act; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA), foreign or native species for which the Service has jurisdiction under the Marine Mammal Protection Act (MMPA), and foreign bird species covered under the Wild Bird Conservation Act (WBCA). With some exceptions, the ESA, MMPA, and WBCA prohibit activities with listed species unless Federal authorization is issued that allows such activities. These Acts also require that we invite public comment before issuing permits for any activity they otherwise prohibit with respect to any species.

DATES: We must receive comments by October 12, 2021.

ADDRESSES:

Obtaining Documents: The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *http://www.regulations.gov* in Docket No. FWS–HQ–IA–2021–0051.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: http://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2021–0051.

• *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2021–0051; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Monica Thomas, by phone at 703–358–2185, via email at *DMAFR@fws.gov,* or via the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *http://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *http://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*); section 104(c) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*); and section 112(4) of the Wild Bird Conservation Act of 1992 (WBCA; 16 U.S.C. 4901–4916), we invite public comments on permit applications before final action is taken. With some exceptions, these Acts prohibit certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17. Service regulations regarding permits for any activity otherwise prohibited by the MMPA with respect to any marine mammals are available in title 50 of the Code of Federal Regulations in part 18. Service regulations regarding permits for any activity otherwise prohibited by the WBCA with respect to any wild birds are available in title 50 of the Code of Federal Regulations in part 15.

Concurrent with publishing this notice in the **Federal Register**, we are forwarding copies of the marine mammal applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

III. Permit Applications

We invite comments on the following applications.

A. Endangered Marine Mammals and Marine Mammals

Applicant: Titan Productions, Monterey, CA; Permit No. PER0004910

The applicant requests a permit to photograph (video and still photography) northern sea otters (*Enhydra lutris kenyoni*) in Alaska and southern sea otters (*Enhydra lutris nereis*) in California, for the purpose of commercial photography. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: BBC Studios Productions Ltd, Los Angeles CA; Permit No. PER0003402

The applicant requests a permit to photograph (video and still photography) southern sea otters (*Enhydra lutris nereis*) in California, for the purpose of commercial photography. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Monterey Bay Aquarium Foundation, Monterey, CA; Permit No. 186914

The applicant requests a permit to renew their permit to take rescued southern sea otters (*Enhydra lutris nereis*) in California, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

B. Wild Bird Conservation Act

The public is invited to comment on the following application for approval to conduct certain activities with bird species covered under the Wild Bird Conservation Act of 1992 (16 U.S.C. 4901–4916). This notice is provided pursuant to section 112(4) of the Wild Bird Conservation Act of 1992 (50 CFR 15.26(c)).

Applicant: David Kanellis, Las Vegas, NV; Permit No. 10109C

The applicant wishes to renew and amend the cooperative breeding program, CB030 Raptor Cooperative Breeding Program, by including the following species: Verreaux's eagle-owl (*Bubo lacteus*), importing to the United States 16 birds (8 males and 8 females); spectacled owl (*Pulsatrix perspicillata*), importing to the United States 20 birds (10 males and 10 females); and boobook owl (*Ninox boobook*), importing to the United States 24 birds (14 males and 10 females). If the amendment is approved, the program will be overseen by the California Hawking Club, Sacramento, California.

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal**

Register. You may locate the notice announcing the permit issuance by searching *http://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *regulations.gov* and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations, and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and its implementing regulations and section 112(4) of the Wild Bird Conservation Act of 1992 (50 CFR 15.26(c)).

Monica Thomas,

Management Analyst, Branch of Permits, Division of Management Authority.

[FR Doc. 2021–19567 Filed 9–9–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GC21NF00GWP2800; OMB Control Number 1028–NEW]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Michindoh Glacial Aquifer Groundwater Study

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Geological Survey (USGS) are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 12, 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. U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; and by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–NEW in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact David Lampe by email at *dclampe@usgs.gov* or by telephone at 317–416–7448. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: In accordance with the PRA and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on May 24, 2021 (86 FR 27888). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: Synoptic water level measurements are a type of measurement where data is collected from many wells over a short period of time. As part of the effort to collect synoptic measurements of the Michindoh Aquifer, the USGS is relying on the participation of property owners from across the region. Those identified as having a selected water well located on their property will be contacted via a postcard. They will then be asked to sign a permission form allowing the USGS to complete groundwater level measurement in their well during Fall 2021 and Spring 2022. This will involve USGS scientists accessing the well and lowering a sanitized electric or steel tape into the well to determine the current water depth below land surface. The measurement that is collected will also be provided to the property owner at the time of collection.

The USGS will attempt to measure approximately 150 to 200 wells within eleven counties in the tri-state region. This large number of measurements over a short period of time will provide the USGS with a snapshot-like understanding of regional water levels. This information will be critical for comprehending the behavior of the entire aquifer system and will be used to model regional groundwater depth.

Title of Collection: Michindoh Glacial Aquifer Groundwater Study.

OMB Control Number: 1028–NEW.

Form Number: None.

Type of Review: New.

Respondents/Affected Public: Individuals/households.

Total Estimated Number of Annual Responses: 250.

Estimated Completion Time per Response: 15 minutes.

Total Estimated Number of Annual Burden Hours: 63 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct, or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Michael Griffin,

Director, Ohio-Kentucky-Indiana Water Science Center.

[FR Doc. 2021–19556 Filed 9–9–21; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/A0A501010.999900 253G; OMB Control Number 1076–0021, 1076–0047, 1076–0141, 1076–0155, 1076–0162]

Agency Information Collection Activities; Electric Power Service Application, Reindeer in Alaska, Water Request, Leases and Permits, Navajo Partitioned Lands Grazing Permits

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew five information collections.

DATES: Interested persons are invited to submit comments on or before November 9, 2021.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to Johnna Blackhair, Deputy Bureau Director, Office of Trust Services, BIA, 1849 C Street NW, MS–4620–MIB, Washington, DC 20240; or by email to *comments@bia.gov.* Please reference OMB Control Number 1076–0021, 1076–0047, 1076–0141, 1076–0155, or 1076–0162 the subject line of your comments.

FOR FURTHER INFORMATION CONTACT:

OMB Control Numbers 1076–0021 and 1076–0141: Elizabeth Pierce, 720–469–6997, *elizabeth.pierce@bia.gov.*

OMB Control Number 1076–0047: Keith Kahklen, 907–586–7618, *keith.kahklen@bia.gov.*

OMB Control Number 1076–0155: Sharlene Round Face, 202–440–2856, *sharlene.roundface@bia.gov.*

OMB Control Number 1076–0162: Calvert Curley, 505–863–8221, *calvert.curley@bia.gov.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The BIA owns, operates, and maintains three electric power utilities that provide a service to the end user, pursuant to 25 CFR 175 (Indian Electric Power Utilities). The BIA must collect customer information to identify the individual responsible for repaying the government its costs for delivering the service and bill for those costs. The BIA must also collect information to identify the location of the service delivery (*i.e.,* electrical hook-up). In addition, the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3701–3733 requires that certain information be collected from individuals and businesses doing business with the government. This information includes the taxpayer identification number for possible future use to recover delinquent debt.

Title of Collection: Electric Power Service Application.

OMB Control Number: 1076–0021.

Form Number: Electric Service Application.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individual Indians and Indian Tribes.

Total Estimated Number of Annual Respondents: 1,300.

Total Estimated Number of Annual Responses: 1,300.

Estimated Completion Time per Response: 30 minutes.

Total Estimated Number of Annual Burden Hours: 650.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $0.

* * * * *

Abstract: The Bureau of Indian Affairs (BIA) is seeking renewal of the approval for the information collection conducted under 25 CFR part 243, Reindeer in Alaska, which is used to monitor and regulate the possession and use of Alaskan reindeer by non-Natives in Alaska. The information to be provided includes an applicant's name and address, and where an applicant will keep the reindeer. The applicant must fill out an application for a permit to get a reindeer for any purpose; and is required to report on the status of reindeer annually or when a change occurs, including changes prior to the date of the annual report. This information collection utilizes four forms. A response is required to obtain and/or retain a benefit.

Title of Collection: Reindeer in Alaska.

OMB Control Number: 1076–0047.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Non-Indians who wish to possess Alaskan reindeer.

Total Estimated Number of Annual Respondents: 4 per year, on average (1 respondent for the Sale Permit for Alaska Reindeer, 1 respondent for the Sale Report Form for Alaska Reindeer, 1 respondent for the Special Use Permit for Alaskan Reindeer, and 1 respondent for the Special Use Reindeer Report).

Total Estimated Number of Annual Responses: 4.

Estimated Completion Time per Response: 5 minutes for the Sale Permit and Report forms; and 10 minutes for the Special Use Permit and Report forms, on average.

Total Estimated Number of Annual Burden Hours: 30 minutes.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: Once a year, on average.

Total Estimated Annual Nonhour Burden Cost: $0.

* * * * *

Abstract: The BIA owns, operates, and maintains 17 irrigation projects that provide a service to the end user. To properly bill for the services provided, the BIA must collect customer information to identify the individual responsible for repaying the government the costs of delivering the service; determine eligibility for waiver of fees; and determine designation of irrigable lands as assessable or non-assessable.

Additional information necessary for providing the service is the location of the service delivery and the number of serviced acres. The Debt Collection Improvement Act of 1996 (DCIA) requires that certain information be collected from individuals and businesses doing business with the government. This information includes the taxpayer identification number for possible future use to recover delinquent debt. To implement the DCIA requirement to collect customer information, the BIA has included a section concerning the collection of information in its regulations governing its irrigation projects (25 CFR 171).

Title of Collection: Water Request.

OMB Control Number: 1076–0141.

Form Number: BIA–DWP–Irr–101; BIA–DWP–Irr–102; BIA–DWP–Irr–103; BIA–DWP–Irr–104; BIA–DWP–Irr–105.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 13,438.

Total Estimated Number of Annual Responses: 35,941.

Estimated Completion Time per Response: Varies from .2 to 6 hours.

Total Estimated Number of Annual Burden Hours: 17,981.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $0.

* * * * *

Abstract: Generally trust and restricted land may be leased by Indian land owners, with the approval of the Secretary of the Interior, except when specified by statute. Submission of this information allows BIA to review applications for obtaining, modifying and assigning leases and permits of land that the United States holds in trust or restricted status for individual Indians and Indian Tribes. The information is used to determine approval of a lease, amendment, assignment, sublease, mortgage or related document. A response is required to obtain or retain a benefit.

Title of Collection: Leases and Permits.

OMB Control Number: 1076–0155.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individual Indians and Indian Tribes seeking to lease their trust or restricted land and businesses that lease trust and restricted land.

Total Estimated Number of Annual Respondents: 99,340.

Total Estimated Number of Annual Responses: 99,340.

Estimated Completion Time per Response: Varies from 15 minutes to 2 hours.

Total Estimated Number of Annual Burden Hours: 81,899.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: In general, once per approval per lease. Some collections occur upon request for modification or assignment or upon a trespass violation, which occur, on average, fewer than once per lease. Additionally, rent payments occur, on average, once per month.

Total Estimated Annual Nonhour Burden Cost: $1,813,000.

* * * * *

Abstract: This information collection is authorized under 25 CFR 161, which implements the Navajo-Hopi Indian Relocation Amendments Act of 1980, 94 Stat. 929, and the Federal court decisions of *Healing* v. *Jones,* 174 F. Supp. 211 (D Ariz. 1959) (Healing I), *Healing* v. *Jones,* 210 F. Supp. 126 (D. Ariz. 1962), aff'd 363 U.S. 758 (1963) (Healing II), *Hopi Tribe* v. *Watt,* 530 F. Supp. 1217 (D. Ariz. 1982), and *Hopi Tribe* v. *Watt,* 719 F.2d 314 (9th Cir. 1983). This information collection allows BIA to receive the information necessary to determine whether an applicant to obtain, modify, or assign a grazing permit on Navajo Partitioned Lands is eligible and complies with all applicable grazing permit requirements. BIA, in coordination with the Navajo Nation, will continue to collect grazing permit information up to and beyond the initial reissuing of the grazing permits, likely within a 1–3 year time period from the date of publication of this notice. The data is collected by electronic global positioning systems and field office interviews by BIA & Navajo Nation staff. The data is maintained by BIA's Navajo Partitioned Lands office.

Title of Collection: Navajo Partitioned Lands Grazing Permits.

OMB Control Number: 1076–0162.

Form Number: 5–5015 and 5–5022.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Tribes, Tribal organizations, and individual Indians.

Total Estimated Number of Annual Respondents: 700.

Total Estimated Number of Annual Responses: 3,121.

Estimated Completion Time per Response: Varies from 15 minutes to 2 hours.

Total Estimated Number of Annual Burden Hours: 2,123.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: $0.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–19537 Filed 9–9–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[212A2100DD/AAKC001030/ A0A501010.999900253G]

Indian Gaming; Approval of Tribal-State Class III Gaming Compact in the State of Washington

Correction

In notice document 2021–18819, appearing on pages 49049 through 49050 in the issue of Wednesday, September 1, 2021 make the following correction.

On page 49049, in the third column, in the **DATES** section, on the second line, ''November 1, 2021'' should read, ''September 1, 2021''.

[FR Doc. C1–2021–18819 Filed 9–9–21; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[212L1109AF LLUT920000 L13400000.KH0000]

Notice of Competitive Offer for Solar Energy Development on Public Lands in Beaver County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM), Cedar City Field Office, Cedar City, Utah, will accept competitive bids to lease public lands for solar energy projects on approximately 4,836 acres within the Milford Flats South Solar Energy Zone in Beaver County, Utah. Notice is

hereby given that the lands described below will be available through a competitive solar lease offer.

DATES: The competitive solar lease offer will be held at 1 p.m. on November 9, 2021. Sealed bids must be received by the BLM Cedar City Field Office on or before 10 a.m. MST on November 9, 2021.

ADDRESSES: Sealed bids may be mailed or hand delivered to the BLM Cedar City Field Office, Attention: Renewable Energy Department, 176 E. DL Sargent Drive, Cedar City, UT 84721. Electronic bid submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Brooklynn Cox at (435) 865–3073 or *bcox@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for the above individual. The FRS is available 24 hours a day, seven days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The BLM Cedar City Field Office has received interest to lease lands within the Milford Flats South Solar Energy Zone. The BLM will offer leases for solar energy development within the solar energy zone in accordance with the competitive process described in 43 CFR Subpart 2809.

Bidders may submit bids for each of the three parcels, consisting of approximately 4,836 acres of public land. All parcels lie within the Milford Flats South Solar Energy Zone, approximately five miles west of Minersville, Utah. The parcels being offered for competitive solar lease offer are described below:

Parcel A

Salt Lake Meridian, Utah

T. 30 S., R. 11 W.,
Sec. 7, lots 6 and 7;
Sec. 18, all that portion lying northwesterly of the apparent centerline of Skyline Road and lying southwesterly of the centerline of right-of-way UTU–74786.

The area described contains approximately 310 acres based on BLM geographic information system data.

Parcel B

Salt Lake Meridian, Utah

T. 30 S., R. 11 W.,
Sec. 7, lot 5, and all that portion of lot 8 lying northeasterly of the centerline of right-of-way UTU–74786;
Sec. 8, SW¼ and W½SE¼;
Sec. 17;
Sec. 18, all that portion lying southeasterly of the apparent centerline of Skyline Road, and all that portion lying northeasterly of the centerline of right-of-way UTU–74786;
Sec. 19, lots 2 and 5, NE¼, and E½NW¼;
Sec. 20, all that portion lying northerly of the northern bank of Minersville Canal;
Sec. 21, all that portion lying northerly of the northern bank of Minersville Canal.

The area described contains approximately 2,708 acres based on BLM geographic information system data.

Parcel C

Salt Lake Meridian, Utah

T. 30 S., R. 11 W.,
Sec. 10, E½, E½NW¼, and SW¼;
Sec. 14, all that portion lying northerly of the northern bank of Minersville Canal;
Sec. 15, all that portion lying northerly of the northern bank of Minersville Canal;
Sec. 22, all that portion lying northerly of the northern bank of Minersville Canal.

The area described contains approximately 1,818 acres based on BLM geographic information system data.

Detailed information about the Milford Flats South Solar Energy Zone, including maps, can be viewed and downloaded at: *https://eplanning.blm.gov/eplanning-ui/project/97506.* As provided for in 43 CFR 2809.13(a), a modified competitive bidding procedure will be used to offer leases within the Milford Flats South Solar Energy Zone. In consideration of the nominating party's financial contributions to the leasing effort and to incentivize development within the solar energy zone, the lease offer will be conducted by sealed bidding with the provision that any nominating party would have the option of meeting the high bid received on parcels that they have nominated.

To submit a bid, you must provide the bidder's name and personal or business address. Each bid can only contain the name of one bidder (*i.e.,* citizen, association or partnership, corporation, or municipality). For your bid to receive consideration, you must submit a complete bid package, including a Technical and Financial Capability Certification, Sealed Bid Statement, payment for the minimum bid, and at least 20 percent of the bonus bid. All bidding documents must be enclosed in a sealed envelope with the bidder's name and return address on the outside. Include the following notation on the front lower left-hand corner of the sealed envelope: SEALED BID—DO NOT OPEN.

The BLM has determined a minimum bid for each parcel. The minimum bid represents 10 percent of the rent value of the land for one year ($67.58 per acre for Beaver County) under the BLM's solar rental schedule and is based on the interests acquired by a lessee in the solar energy zone. The minimum bid also includes an administrative fee of approximately $2.42 per acre to cover the BLM's costs of preparing for and conducting the competitive offer. Minimum bonus bids for the three parcels are: Parcel A—$2,845; Parcel B—$24,854; and Parcel C—$16,686. Bidders must use the Sealed Bid Statement to identify the bonus amount, if any, the bidder would pay above the minimum bid to acquire a lease for each parcel. Variable offsets to the final bonus bid payment, up to 20 percent, may be offered for bidders that meet any of the following criteria, each of which individually represents a potential five percent offset: (1) The bidder has submitted a nomination within the solar energy zone prior to this offer; (2) the bidder proposes to use photovoltaic technology for future development; (3) the bidder proposes to use a direct imbed, or other construction method, that will minimize surface disturbance; and (4) the bidder can show substantial progress toward securing a power purchase agreement and/or a large generator interconnect agreement. You must submit documentation regarding how you qualify for these variable offsets with your bid if you wish to receive consideration. The bidder with the highest total bid, prior to any variable offset, will be the successful bidder, subject to the provision for nominating party matching. The Sealed Bid Statement form, Technical and Financial Capability Certification form, and a complete description of the bid process are contained in an Invitation for Bids package available at the following location: *https://eplanning.blm.gov/eplanning-ui/project/97506.* All bidders will be notified within 10 calendar days after the bidding closes of whether they were the successful bidder. Nominating party(ies) will be notified and have the option of meeting the high bid within this 10-day timeframe.

If you are the successful bidder, you must then submit, within 15 calendar days after notification, the balance of the bonus bid (after approved variable offsets are applied), and the first 12 months acreage rent, to the BLM Cedar City Field Office. The BLM will offer you a right-of-way lease if you are the successful bidder and you: (1) Satisfy the qualifications in 43 CFR 2803.10; (2) make the required payments listed above; and (3) do not have any trespass action pending against you for any activity on BLM-administered lands or have any unpaid debts owed to the Federal Government. The BLM will not offer a lease to the successful bidder and will keep all money that has been submitted if the successful bidder does not satisfy these requirements. In that

event, the BLM may offer the lease to the next highest bidder, or re-offer the lands through another competitive process, or make the lands available through the non-competitive application process found in 43 CFR 2803, 2804, and 2805.

The administrative fee portion of the minimum bid will be retained by the agency to recover administrative costs for conducting the competitive bid and related processes. The remainder of the minimum bid and bonus bid will be deposited with the U.S. Treasury. Neither amount will be returned or refunded to the successful bidder(s) under any circumstance. If you are not the successful bidder as defined in 43 CFR 2809.15(a), the BLM will return or refund the total bid amount submitted with your bid.

Any required payments submitted must be made by personal check, cashier's check, certified check, bank draft, money order, or by other means deemed acceptable by the BLM, payable to the Department of the Interior—Bureau of Land Management.

In the case of tied bids, the BLM may re-offer the lands competitively to the tied bidders, or to all prospective bidders. If there is no bid received for a parcel, then no lease will be issued and the BLM may choose to make the lands available through the non-competitive application process found in 43 CFR 2803, 2804, and 2805, or make the land available at a later date by competitive process.

Any lease issued will be subject to the terms and conditions specified in 43 CFR 2809.18, and the following design features, mitigation measures and stipulations:

(1) The leaseholder will be required to incorporate design features into the project plan of development to avoid and minimize impacts to the surrounding environment. Design features that cover possible site-specific resource conflicts are included in the Decision Record for Milford Flats South Solar Energy Zone Leasing Environmental Assessment (DOI–BLM–UT–C010–2018–0042–EA). In accordance with the design features and other requirements, the leaseholder will prepare the following management plans, if applicable, and submit them to the BLM as part of their plan of development for approval, following the issuance of a right-of-way lease for the project and prior to the BLM issuing a Notice to Proceed with construction:

- Bird and Bat Conservation Strategy
- Decommissioning and Site Reclamation Plan
- Dust Abatement Plan
- Spill Prevention and Emergency Response Plan
- Hazardous Materials and Waste Management Plan
- Health and Safety Program
- Groundwater Monitoring and Reporting Plan
- Fire Management Plan
- Lighting Management Plan
- Integrated Weed Management Plan
- Raven Management Plan
- Site Rehabilitation and Restoration Plan
- Stormwater Pollution Prevention Plan
- Site Drainage Plan
- Traffic Management Plan
- Surface Water Quality Management Plan
- Worker Education and Awareness Plan

(2) The leaseholder will comply with all relevant protective measures and design features established in the Approved Resource Management Plan Amendment/Record of Decision for Solar Development in Six Southwestern States signed on October 12, 2012.

(3) A Class III cultural survey will be required prior to any ground disturbing activities. All historic properties found will be avoided or mitigated in consultation with State Historic Preservation Office.

(4) Any mitigation resulting from an adverse effect to historic properties will be addressed through a Memorandum of Agreement as outlined in the Programmatic Agreement for the Approved Resource Management Plan Amendment/Record of Decision for Solar Development in Six Southwestern States.

(5) Appropriate protection measures will be applied to existing improvements (*e.g.,* canals and access to private lands) and rights-of-way within the solar energy zone and adjacent to other ancillary facilities (*e.g.,* gen-tie line(s) and substation) required for development of any leased parcels.

(6) The leaseholder will compensate the grazing permittees for any range improvements affected or lost by solar lease operations.

(7) The leaseholder will construct new fences that will continue to keep the allotments and pastures separated as needed to mitigate for the removal of allotment and pasture fences.

(8) Rights-of-way for livestock grazing driveways may be granted through solar lease parcels if requested by grazing permittees.

(9) Any plan of development submitted will address mitigation and compensation strategies for impacts to livestock grazing, and any agreement with the affected grazing permittee addressing these mitigation and compensation strategies will be submitted to the BLM concurrent with the plan of development prior to the BLM authorizing a Notice to Proceed with construction.

(10) Ground-level survey wildlife clearances will be conducted for sensitive species prior to surface disturbing activities proposed during the specified date ranges below. Surveys for sensitive species will be conducted by qualified biologists, and appropriate best management practices, including spatial buffers specified below, or mitigation will be applied prior to project implementation. Nest buffers may be lifted if surveys confirm a nest is not occupied.

Species	Stipulation
Dark Kangaroo Mouse	Avoid occupied habitat by 330 feet year-round or mitigate impacts.
Kit Fox	Avoid occupied burrows by 330 feet year-round or mitigate impacts.
Pygmy Rabbit	Avoid occupied habitat by 330 feet year-round or mitigate impacts.
Bald Eagle	1.0-mile nest buffer. Avoid area from 1/1–8/31.
Brewer's Sparrow	100-foot nest buffer. Avoid area from 4/1–7/31.
Burrowing Owl	0.25-mile nest buffer. Avoid area from 3/1–8/31.
Ferruginous Hawk	0.25-mile nest buffer. Avoid area from 3/1–8/1.
Golden Eagle	0.5-mile nest buffer. Avoid area from 3/1–8/1.
Long-billed Curlew	100-foot nest buffer. Avoid area from 4/1–7/31.
Sage Thrasher	100-foot nest buffer. Avoid area from 4/1–7/31.
Short-eared Owl	0.25-mile nest buffer. Avoid area from 3/1–8/1.

(11) Construction will occur outside of the migratory bird breeding season (April 1–July 31). If seasonal avoidance is not feasible, nest surveys will be conducted by a qualified biologist and appropriate spatial buffers enacted at a species-specific level. Buffers may be lifted if surveys confirm a nest is not occupied.

(12) If an area is determined to be occupied greater sage-grouse habitat after ground level surveys are completed, mitigation will be considered in conformance with the current BLM greater sage-grouse plans and policy. Anthropogenic actions associated with development of the solar energy zone may need to be avoided during greater sage-grouse brood rearing season (April 15–August 15) if it is shown that those actions will affect brood rearing activities in the area as determined by a qualified biologist.

(13) The developer will be required to coordinate and confirm any stream alteration or Section 404 permitting requirements through the appropriate State or Federal agency with jurisdiction.

Authority: 43 CFR 2803, 2804, 2805, and 2809.

Gregory Sheehan,

Bureau of Land Management, State Director, Utah.

[FR Doc. 2021–19555 Filed 9–9–21; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–32552; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before August 28, 2021, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by September 27, 2021.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on <property or proposed district name, (County) State>.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before August 28, 2021. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

FLORIDA

Pinellas County

North Ward School, 900 North Fort Harrison Ave., Clearwater, SG100007057

Taylor County

Mittendorf House, 803 Riverside Dr., Steinhatchee, SG100007050

MISSISSIPPI

Lee County

Tupelo Downtown Neighborhood Historic District, Roughly bounded by East Jackson, North Spring, Main, West Jefferson, and North, Gloster Sts., Tupelo, SG100007053

MISSOURI

Cole County

Orchard Acres, 2113 West Main St., Jefferson City, SG100007040

Simonsen School, 501 East Miller St., Jefferson City, SG100007041

Jackson County

Firestone Tire and Rubber Company Service Station, 1112 East Linwood Blvd., Kansas City, SG100007044

Jasper County

Memorial Hall, 212 West 8th St., Joplin, SG100007039

St. Charles County

Mueller, Phillip, House, 5372 St. Charles St., Cottleville, SG100007045

St. Louis Independent City, Lutheran Hospital and School of Nursing, 3535 South Jefferson Ave. (primary); 3519–59 South Jefferson Ave., 2611–19 Miami St., St. Louis, SG100007042

PUERTO RICO

Ponce Municipality

La Perla Auditorium and Public Library, Calle Mayor Esq. Cristina, Ponce vicinity, SG100007054

TEXAS

Anderson County

Palestine New Town Commercial Historic District, (Palestine, Texas MPS). Roughly bounded by North Queen, Crawford, North Houston, and Spring Sts., Palestine, MP100007058

VERMONT

Washington County

Waterbury Village Historic District (Boundary Increase/Decrease), North Main, Union, Winooski Sts., Adams Ct., Stowe St., Bidwell Ln., Railroad St., Locust Terr., Swazey Ct., High St., Turner Ct., Hill, South Main, and Elm Sts., Parker Ct., Foundry and, Randall Sts., Park Row, Rotarian Pl., Park St., Moody Ct., Waterbury, BC100007056

Additional documentation has been received for the following resources:

ARKANSAS

Polk County

Shaver, James D., House (Additional Documentation), 501 12th St., Mena, AD79003431

VERMONT

Chittenden County

University Green Historic District (Additional Documentation), Address Restricted, Burlington vicinity, AD75000139

Redstone Historic District (Additional Documentation), 342, 350, 354, 376, 384–392, 406, 420 South Prospect St., Burlington, AD91001614

Washington County

Waterbury Village Historic District (Additional Documentation), North Main, Union, Winooski Sts., Adams Ct., Stowe St., Bidwell Ln., Railroad St., Locust Terr., Swazey Ct., High St., Turner Ct., Hill, South Main, and Elm Sts., Parker Ct., Foundry and, Randall Sts., Park Row, Rotarian Pl., Park St., Moody Ct., Waterbury, AD78000249

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nomination(s) and responded to the Federal Preservation Officer within 45 days of receipt of the nomination(s) and supports listing the properties in the National Register of Historic Places.

SOUTH CAROLINA

Charleston County

Snee Farm-Charles Pinckney National Historic Site (Boundary Increase), 1254 Long Point Rd., Mount Pleasant, BC100007048

Snee Farm-Charles Pinckney National Historic Site (Additional Documentation), 1254 Long Point Rd., Mount Pleasant, AD73001702

Authority: Section 60.13 of 36 CFR part 60.

Dated: August 31, 2021.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2021–19518 Filed 9–9–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0020; DS63644000 DR2000000.CH7000 212D1113RT; OMB Control Number 1012–0004]

Agency Information Collection Activities: Royalty and Production Reporting

AGENCY: Office of Natural Resources Revenue (''ONRR''), Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (''PRA''), ONRR is proposing to renew an information collection. Through this Information Collection Request (''ICR''), ONRR seeks renewed authority to collect information used to verify, audit, collect, and disburse royalty owed on oil, gas, and geothermal resources produced from Federal and Indian lands. ONRR uses forms ONRR–2014, ONRR–4054, and ONRR–4058 as part of these information collection requirements.

DATES: You must submit your written comments on or before November 9, 2021.

ADDRESSES: All comment submissions must (1) reference ''OMB Control Number 1012–0004'' in the subject line; (2) be sent to ONRR before the close of the comment period listed under **DATES**; and (3) be sent through one of the following two methods:

• *Electronically via the Federal eRulemaking Portal:* Please visit *https://www.regulations.gov.* In the Search Box, enter the Docket ID Number for this ICR renewal (''ONRR–2011–0020'') and click ''search'' to view the publications associated with the docket folder. Locate the document with an open comment period and click the ''Comment Now!'' button. Follow the prompts to submit your comment prior to the close of the comment period.

• *Email Submissions:* Please submit your comments to *ONRR_regulationsmailbox@onrr.gov* with the OMB Control Number (''OMB Control Number 1012–0004'') listed in the subject line of your email. Email submissions must be postmarked on or before the close of the comment period.

Docket: To access the docket folder to view the ICR **Federal Register** publications, go to *https://www.regulations.gov* and search ''ONRR–2011–0020'' to view renewal notices recently published in the **Federal Register**, publications associated with prior renewals, and applicable public comments received for this ICR. ONRR will make the comments submitted in response to this notice available for public viewing at *https://www.regulations.gov.*

OMB ICR Data: OMB also maintains information on ICR renewals and approvals. You may access this information at *https://www.reginfo.gov/public/do/PRASearch.* Please use the following instructions: Under the ''OMB Control Number'' heading enter ''1012–0004'' and click the ''Search'' button located at the bottom of the page. To view the ICR renewal or OMB approval status, click on the latest entry (based on the most recent date). On the ''View ICR—OIRA Conclusion'' page, check the box next to ''All'' to display all available ICR information provided by OMB.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, please contact Donna Myles, Reference & Reporting Management, ONRR, by email at *Donna.Myles@onrr.gov or by* telephone (214) 640–9057.

Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: Pursuant to the PRA, 44 U.S.C. 3501, *et seq.,* and 5 CFR 1320.5, all information collections, as defined in 5 CFR 1320.3, require approval by OMB. ONRR may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of ONRR's continuing effort to reduce paperwork and respondent burdens, ONRR is inviting the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information in accordance with the PRA and 5 CFR 1320.8(d)(1). This helps ONRR to assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand ONRR's information collection requirements and provide the requested data in the desired format.

ONRR is especially interested in public comments addressing the following:

(1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of ONRR's estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. ONRR will include or summarize each comment in its request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask ONRR in your comment to withhold your personal identifying information from public review, ONRR cannot guarantee that it will be able to do so.

Abstract: (a) General Information: The Federal Oil and Gas Royalty Management Act of 1982 (''FOGRMA'') directs the Secretary of the Interior (''Secretary'') to ''establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner.'' *See* 30 U.S.C. 1711. ONRR performs these and other mineral revenue management responsibilities for the Secretary. *See* U.S. Department of the Interior Departmental Manual, 112 DM 34.1 (Sept. 9, 2020). ONRR uses the production, royalty, and other information collected in this ICR to ensure that a lessee properly pays

royalty and other mineral revenues due on oil, gas, and geothermal resources produced from Federal and Indian lands. ONRR also shares the data with the Bureau of Safety and Environmental Enforcement, Bureau of Ocean Energy Management, Bureau of Land Management, Bureau of Indian Affairs, and Tribal and State governments for their land and lease management responsibilities. The requirement to report accurately and timely is mandatory. Please refer to the chart for all reporting requirements and associated burden hours.

(b) Information Collections: This ICR covers the paperwork requirements under 30 CFR part 1210, subparts B, C, and D, and part 1212, subpart B as follows:

(1) Royalty Reporting: Regulations at 30 CFR part 1210, subparts B and D and part 1212, subpart B, require a lessee to report and remit royalty on oil, gas, and geothermal resources, and to make, retain, and, upon request, provide for inspection accurate and complete records demonstrating proper royalty and other payment. A lessee submits ONRR form 2014, *Report of Sales and Royalty Remittance,* monthly to report royalty on oil, gas, and geothermal leases. Each line contains the royalty owed and the basic elements necessary to calculate the royalty, such as lease number, agreement number, unit number, product code, sales type, sales volume, sales value, processing allowances, transportation allowances, royalty value prior to allowances, and royalty value less allowances. A lessee also uses the form to report certain rents.

(2) Production Reporting: Regulations at 30 CFR part 1210, subparts C and D and part 1212, subpart B, require an operator to submit production reports if it operates a Federal or Indian oil and gas lease or federally approved unit or communitization agreement, and to make, retain, and, upon request, provide for inspection accurate and complete records for demonstrating royalty payment. An operator uses the following forms for production accounting and reporting:

(i) Form ONRR–4054, Oil and Gas Operations Report: An operator submits this report monthly. Part A tracks the oil and gas volume produced from each Federal or Indian well. Part B tracks disposition of the oil and gas. Part C tracks the oil and gas inventory on the property. ONRR compares the production information with the sales and other royalty data that a lessee submits on form ONRR–2014 to ensure that the lessee paid and reported the proper royalty on the reported oil and gas production. ONRR also uses the information from parts A, B, and C to track all oil and gas from the point of production to the point of first sale or other disposition.

(ii) Form ONRR–4058, Production Allocation Schedule Report: Unless certain conditions are met, an operator must submit this report if it operates an offshore facility measurement point (FMP) handling production from a Federal oil and gas lease or federally approved unit agreement that is commingled (with approval) with production from any other source prior to measurement for royalty determination. The report is filed monthly to allocate the production to each source. ONRR uses the data to verify accurate production and royalty reporting.

Title of Collection: Royalty and Production Reporting.

OMB Control Number: 1012–0004.

Form Numbers: ONRR–2014, ONRR–4054, and ONRR–4058.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Businesses.

Total Estimated Number of Annual Respondents: 3,048 oil, gas, and geothermal reporters.

Total Estimated Number of Annual Responses: 11,929,280 lines of data.

Estimated Completion Time per Response: Varies between 1 and 7 minutes per line, depending on the activity. The average completion time is 1.69 minutes per line. The average completion time is calculated by first multiplying the estimated annual burden hours from the table below (337,933) by 60 to obtain the total annual burden minutes. Then the total annual burden minutes (20,275,980) is divided by the estimated annual number of lines submitted from the table below (11,929,280).

Total Estimated Number of Annual Burden Hours: 337,933 hours.

Respondent's Obligation: Mandatory.

Frequency of Collection: Monthly.

Total Estimated Annual Non-Hour Burden Cost: ONRR identified no ''non-hour cost'' burden associated with this collection of information.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the PRA (44 U.S.C. 3501, *et seq.*).

Kimbra G. Davis,

Director, Office of Natural Resources Revenue.

[FR Doc. 2021–19552 Filed 9–9–21; 8:45 am]

BILLING CODE 4335–30–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1535–1536 (Final)]

Methionine From Japan and Spain

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of methionine from Japan and Spain, provided for in subheadings 2930.40.00 and 2930.90.46 of the Harmonized Tariff Schedule of the United States, that have been found by the U.S. Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'').[2] [3]

Background

The Commission, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), instituted antidumping duty investigations, effective July 29, 2020, following receipt of petitions filed with the Commission and Commerce by Novus International Inc., St. Charles, Missouri. Effective, February 24, 2021, the Commission established a general schedule for the conduct of the final phase of its investigations on methionine, following a preliminary determination by Commerce that imports of methionine from France were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 9, 2021 (86 FR 13585). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its hearing by video conference on May 11, 2021. All persons who requested the opportunity were permitted to participate.

The investigation schedules became staggered when Commerce: (i)

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 86 FR 38983 and 86 FR 38985 (July 23, 2021).

[3] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order on Spain.

Postponed the final determinations for its antidumping duty investigations regarding methionine from Japan and Spain; and (ii) reached an earlier final antidumping duty determination concerning methionine from France. On June 30, 2021, the Commission issued a final affirmative determination in its antidumping duty investigation of methionine from France (86 FR 35826, July 7, 2021). Following notification of final determinations by Commerce that imports of methionine from Japan and Spain were being sold at LTFV within the meaning of section 735(a) of the Act (19 U.S.C. 1673d(a)), notice of the supplemental scheduling of the final phase of the Commission's antidumping duty investigations was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of August 2, 2021 (86 FR 41513).

The Commission made these determinations pursuant to § 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on September 7, 2021. The views of the Commission are contained in USITC Publication 5230 (September 2021), entitled *Methionine from Japan and Spain: Investigation Nos. 731–TA–1535–1536 (Final).*

By order of the Commission.

Issued: September 7, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–19563 Filed 9–9–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1197]

Certain Portable Gaming Console Systems With Attachable Handheld Controllers and Components Thereof II: Commission Determination To Review in Part a Final Initial Determination, and on Review, To Find No Violation of Section 337; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review a final initial determination (''ID'') with respect to whether the economic prong of the domestic industry requirement was satisfied, and on review, has determined to take no position on the issue. The Commission has determined not to review the remainder of the ID, and thereby finds no violation of section 337 of the Tariff Act of 1930. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On May 4, 2020, the Commission instituted this investigation based on a complaint filed on behalf of Gamevice, Inc. of Simi Valley, California (''Gamevice''). 85 FR 26492–93 (May 4, 2020). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain portable gaming consoles with attachable handheld controllers and component thereof by reason of infringement of one or more of claims 1–4, 6–8, and 12–18 of U.S. Patent No. 10,391,393 (''the '393 patent''). *Id.* The Commission's notice of investigation named as respondents Nintendo Co., Ltd. of Kyoto, Japan, and Nintendo of America, Inc. of Redmond, Washington. *Id.* at 26493. The Office of Unfair Import Investigations (''OUII'') is participating in this investigation. *Id.* The Commission subsequently terminated the investigation with respect to claims 13–16 of the '393 patent. Order No. 6 (Aug. 14, 2020), *unreviewed by* Comm'n Notice (Sept. 10, 2020) (terminating claims 13–15); Order No. 10 (Dec. 7, 2020), *unreviewed by* Comm'n Notice (Jan. 5, 2021) (terminating claim 16).

On July 2, 2021, the presiding administrative law judge issued the subject ID finding no violation of section 337. The ID found that Gamevice failed to show that Nintendo infringed claims 1–4, 6–8, 12, 17, and 18 of the '393 patent. The ID also found that Nintendo showed by clear and convincing evidence that claims 1–4, 6–8, 16–18, 20, and 22 of the '393 patent are invalid. The ID found that Gamevice showed that at least one of its domestic industry products practices claims 8–11 of the '393 patent, and that Gamevice established the economic prong with respect to that product, and therefore satisfied the domestic industry requirement with respect to valid claims 9–11 of the '393 patent.

On July 19, 2021, Gamevice petitioned for review with respect to the ID's findings on noninfringement and invalidity with respect to claims 1–4, 6, 7, and 12 of the '393 patent, thereby abandoning its case with respect to claims 8, 16–18, 20, and 22 of the '393 patent. *See* 19 CFR 210.43(b)(2) (stating that ''[a]ny issue not raised in petition for review will be deemed to have been abandoned by the petitioning party''). That same day, Nintendo contingently petitioned for review with respect to the ID's validity findings regarding claims 17, 19, and 21 based on indefiniteness, regarding claim 12 based on obviousness, and regarding claims 1–4, 6–8, and 17–18 based on a lack of adequate written description. On July 27, 2021, Gamevice and Nintendo opposed each other's petitions, and OUII opposed both petitions.

Having examined the record of this investigation, including the ID, the petitions for review, and the responses thereto, the Commission has determined to review and take no position on the issue of whether Gamevice demonstrated that it satisfied the economic prong of the domestic industry requirement. *Beloit Corp.* v. *Valmet Oy,* 742 F.2d 1421, 1423 (Fed. Cir. 1984). The Commission has determined not to review the remainder of the ID. The investigation is hereby terminated with a final determination of no violation of section 337.

The Commission vote for this determination took place on September 3, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: September 3, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–19510 Filed 9–9–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On August 30, 2021, the Department of Justice filed a complaint and lodged a proposed consent decree with the United States District Court for the District of Montana in the lawsuit entitled *United States* v. *Northern Cheyenne Utilities Commission,* Civil Action No. 1:21-cv-00094–SPW–TJC.

The United States filed this lawsuit against the Northern Cheyenne Utilities Commission (''Defendant'') for violations of the Clean Water Act at the Lame Deer Wastewater Treatment Facility (''Facility''). The Facility is operated and maintained by the Defendant and located in Lame Deer, Montana, within the exterior boundaries of the Northern Cheyenne Indian Reservation. The Complaint seeks injunctive relief and civil penalties for the following violations of the Clean Water Act: Unpermitted discharge of pollutants from the Facility, noncompliance with the terms and conditions of the National Pollutant Discharge Elimination System (''NPDES'') permit issued to the Facility, and Defendant's failure to comply with the requirements of an administrative Order for Compliance issued to Defendant by the United States Environmental Protection Agency on July 7, 2015 (Docket No. CWA–08–2015–0020).

Under the proposed Consent Decree, Defendant will perform injunctive relief, including: Completion of certain Facility related physical improvements; the acquisition and maintenance of equipment spare parts; development of a Plan of Operations to operate and maintain the Facility in a manner consistent with its NPDES permit and the Clean Water Act; training and hiring of certified waste operators; development of an annual Facility budget; completion of an interim service rates study and implementation of service rates based on the study; development of an updated billing and collection policy; and development of a communication and notification plan to improve coordination on issues related to wastewater collection and treatment services provided by Defendant. In addition, Defendant will pay a $1,500.00 civil penalty, based on certain ability to pay limitations. The Consent Decree resolves the civil claims alleged by the United States in the Complaint.

The publication of this notice opens a period for public comment on the Consent Decree. Comments on the Consent Decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Northern Cheyenne Utilities Commission,* D.J. Ref. No. 90–5–1–1–11646. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $53.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the appendices and signature pages, the cost is $12.50.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–19569 Filed 9–9–21; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Acquest Transit, LLC, et al.,* No. 09–cv–55, was lodged with the United States District Court for the Western District of New York on September 3, 2021.

This proposed Consent Decree concerns a complaint filed by the United States against Defendants Acquest Transit, LLC, Acquest Development LLC, and William L. Huntress, pursuant to 33 U.S.C. 1319, to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations by requiring the Defendants to make a payment to the New York State Department of Environmental Conservation Natural Resource Damages Fund.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Tsuki Hoshijima, Post Office Box 7611, Washington, DC 20044–7611, *pubcomment_eds.enrd@usdoj.gov* and refer to *United States* v. *Acquest Transit, LLC, et al.,* DJ # 90–5–1–1–18377.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Western District of New York, 2 Niagara Square, Buffalo, NY 14202. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/consent-decrees.*

Cherie Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2021–19507 Filed 9–9–21; 8:45 am]

BILLING CODE 4410–15–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0137]

Systematic Assessment for How the NRC Addresses Environmental Justice in Its Programs, Policies, and Activities

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: On July 9, 2021, the U.S. Nuclear Regulatory Commission (NRC) requested comments as part of its systematic review for how NRC programs, policies, and activities address environmental justice. Specifically, the NRC requested input on how the agency is addressing environmental justice, considering the agency's mission and statutory authority. The information will be used to inform the agency's assessment of how it addresses environmental justice. The public comment period was originally scheduled to close on August 23, 2021 and was extended to September 22, 2021. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date for comments requested in the notice, published on July 9, 2021, (86 FR 36307) is extended. Submit comments by October 29, 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:

- *Telephone:* 301–415–3875 or 800–882–4672.
- *Email: NRC-EJReview@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.
- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0137. 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.

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: Allen Fetter, Office of the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–8556, email: *Allen.Fetter@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0137 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0137.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The Staff Requirements Memorandum (SRM)–M210218B, ''Briefing on Equal Employment Opportunity, Affirmative Employment, and Small Business, 10:00 a.m., Thursday, February 18, 2021, Video Conference Meeting,'' dated April 23, 2021, which provides direction to the staff or this assessment, is available in ADAMS under Accession No. ML21113A070.
- Attention: The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages comment submission via email and phone. Please reference Docket ID NRC–2021–0137 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post comment submissions received via regulations.gov at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

The NRC is an independent agency established by the Energy Reorganization Act of 1974 that began operations in 1975 as a successor to the licensing and regulatory activities of the Atomic Energy Commission. The NRC's mission is to license and regulate the Nation's civilian use of radioactive materials to provide reasonable assurance of adequate protection of public health and safety and to promote the common defense and security and to protect the environment. As part of its licensing and regulatory activities, the NRC conducts safety, security, and environmental reviews.

Specifically, with respect to environmental reviews, the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.,* requires all Federal agencies to evaluate the impacts of proposed major actions on the human environment. As part of its responsibilities under NEPA, the NRC considers environmental justice. According to the Commission, ''[t]he term 'environmental justice' refers to the federal policy established in 1994 by Executive Order 12898, which directed federal agencies to identify and address 'disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.' '' *Entergy Nuclear Operations, Inc.* (Indian Point Nuclear Generating Units 2 and 3), CLI–15–6, 81 NRC 340, 369 (2015).

The NRC, as an independent agency, was requested, rather than directed, to comply with Executive Order 12898, and this Executive Orderdid not, in itself, create new substantive authority for Federal agencies. In a March 31, 1994, letter to President Clinton, NRC Chairman Ivan Selin indicated that the NRC would endeavor to carry out the measures set forth in Executive Order 12898 and the accompanying memorandum as part of the NRC's efforts to comply with NEPA (ADAMS Accession No. ML033210526). As noted in the NRC's 1995 Environmental Justice Strategy (ADAMS Accession No. ML20081K602 (March 24, 1995)), because ''the NRC is not a 'land management' agency, *i.e.,* it neither sites, owns, or manages facilities or properties,'' the NRC determined that Executive Order 12898 would ''primarily apply to [NRC] efforts to fulfill'' NEPA requirements as part of NRC's licensing process.

On August 24, 2004, following public comment on a draft Policy Statement (68 FR 62642), the Commission issued its ''Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions'' (69 FR 52040). The purpose of this Policy Statement was to set forth a ''comprehensive statement of the Commission's policy on the treatment of environmental justice matters in NRC regulatory and licensing actions.'' *Id.* at 52,041. The Policy Statement explains that the focus of an environmental justice review ''should be on identifying and weighing disproportionately significant and adverse environmental impacts on minority and low-income populations that may be different from the impacts on the general population. It is not a broad-ranging or even limited

review of racial or economic discrimination.'' *Id.* at 52,047.

The Policy Statement also reiterates guidance on defining the geographic area for environmental justice assessments and identifying low-income and minority communities. *Id.* In addition, it explains that a scoping process is used to ''assist the NRC in ensuring that minority and low-income communities, including transient populations, affected by the proposed action are not overlooked in assessing the potential for significant impacts unique to those communities.'' *Id.* at 52,048. In performing a NEPA analysis, ''published demographic data, community interviews and public input through well-noticed public scoping meetings should be used in identifying minority and low-income communities that may be subject to adverse environmental impacts.'' *Id.*

On April 23, 2021, in a Staff Requirements Memorandum (ADAMS Accession No. ML21113A070), the Commission directed the staff to ''systematically review how the agency's programs, polices, and activities address environmental justice.'' As part of this review, the Commission directed the staff to evaluate recent Executive Orders and assess whether environmental justice is appropriately considered and addressed in the agency's programs, policies, and activities, given the agency's mission. As directed, the staff will consider the practices of other Federal, State, and Tribal agencies and evaluate whether the NRC should incorporate environmental justice beyond implementation through NEPA. The staff will also review the adequacy of the 2004 Policy Statement. The Commission further directed the staff to consider whether establishing formal mechanisms to gather external stakeholder input would benefit any future environmental justice efforts. To carry out the Commission's direction, the staff is seeking to engage stakeholders and interested persons representing a broad range of perspectives. This **Federal Register** notice is part of this engagement effort.

III. Requested Information and Comments

On July 9, 2021, the NRC published a notice in the **Federal Register** (86 FR 36307) requesting comments. The comment period was originally scheduled to close on August 23, 2021 and was extended to September 22, 2021 (86 FR 43696). The NRC staff has decided to extend the comment period until October 29, 2021, to allow more time for members of the public to submit their comments.

The NRC is interested in obtaining a broad range of perspectives from stakeholders and interested persons. The focus of this request is to gather information to inform a systematic assessment for how the NRC addresses environmental justice in its programs, policies, and activities, considering the agency's mission and statutory authority. The NRC is particularly interested in receiving input on the following questions:

(1) What is your understanding of what is meant by environmental justice at the NRC?

(2) As described in the Commission's 2004 Policy Statement on the Treatment of Environmental Justice Matters in NRC Regulatory and Licensing Actions (69 FR 52040), the NRC currently addresses environmental justice in its NEPA reviews to determine if a proposed agency action will have disproportionately high and adverse impacts on minority and low-income communities, defined as environmental justice communities.

(a) When the NRC is conducting licensing and other regulatory reviews, the agency uses a variety of ways to gather information from stakeholders and interested persons on environmental impacts of the proposed agency action, such as in-person and virtual meetings, **Federal Register** notices requesting input, and dialog with community organizations.

(i) How could the NRC expand how it engages and gathers input?

(ii) What formal tools might there be to enhance information gathering from stakeholders and interested persons in NRC's programs, policies, and activities?

(iii) Can you describe any challenges that may affect your ability to engage with the NRC on environmental justice issues?

(b) How could the NRC enhance opportunities for members of environmental justice communities to participate in licensing and regulatory activities, including the identification of impacts and other environmental justice concerns?

(c) What ways could the NRC enhance identification of environmental justice communities?

(d) What has the NRC historically done well, or currently does well that we could do more of or expand with respect to environmental justice in our programs, policies, and activities, including engagement efforts? In your view, what portions of the 2004 Policy Statement are effective?

(3) What actions could the NRC take to enhance consideration of environmental justice in the NRC's programs, policies and activities and agency decision-making, considering the agency's mission and statutory authority?

(a) Would you recommend that NRC consider any particular organization's environmental justice program(s) in its assessment?

(b) Looking to other Federal, State, and Tribal agencies' environmental justice programs, what actions could the NRC take to enhance consideration of environmental justice in the NRC's programs, policies, and activities?

(c) Considering recent Executive Orders on environmental justice, what actions could the NRC take to enhance consideration of environmental justice in the NRC's programs, policies, and activities?

(d) Are there opportunities to expand consideration of environmental justice in NRC programs, policies, and activities, considering the agency's mission? If so, what are they?

Dated: September 7, 2021.

For the Nuclear Regulatory Commission.

Gregory F. Suber,

Director, Environmental Justice Review Team, Office of the Executive Director for Operations.

[FR Doc. 2021–19549 Filed 9–9–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of September 13, 20, 27, October 4, 11, 18, 2021.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and closed.

MATTERS TO BE CONSIDERED:

Week of September 13, 2021

Tuesday, September 14, 2021

10:00 a.m. Briefing on NRC International Activities (Closed—Ex. 1 & 9)

Week of September 20, 2021—Tentative

There are no meetings scheduled for the week of September 20, 2021.

Week of September 27, 2021—Tentative

Thursday, September 30, 2021

9:00 a.m. Strategic Programmatic Overview of the Operating Reactors and New Reactors Business Lines (Public Meeting); (Contact: Candace De Messieres: 301–415–8395).

Additional Information: Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/.*

Week of October 4, 2021—Tentative

Tuesday, October 5, 2021

10:00 a.m. Meeting with the Advisory Committee on the Medical Uses of Isotopes (Public Meeting); (Contact: Kellee Jamerson: 301–415–7408).

Additional Information: Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/.*

Friday, October 8, 2021

10:00 a.m. Meeting with the Advisory Committee on Reactor Safeguards (Public Meeting); (Contact: Larry Burkhart: 301–287–3775).

Additional Information: Due to COVID–19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live by webcast at the Web address—*https://video.nrc.gov/.*

Week of October 11, 2021—Tentative

There are no meetings scheduled for the week of October 11, 2021.

Week of October 18, 2021—Tentative

There are no meetings scheduled for the week of October 18, 2021.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.* The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Betty.Thweatt@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: September 8, 2021.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2021–19719 Filed 9–8–21; 4:15 pm]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92876; File No. SR–NYSE–2021–45]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Proposing To Adopt Listing Standards for Subscription Warrants Issued by a Company Organized Solely for the Purpose of Identifying an Acquisition Target

September 3, 2021.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on August 24, 2021, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Listed Company Manual (''Manual'') to adopt a new listing standard for the listing of Subscription Warrants. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 Exchange proposes to adopt a new subsection of Section 102 of the Manual (to be designated Section 102.09) to permit the listing of Subscription Warrants. For purposes of proposed Section 102.09 a Subscription Warrant is a warrant issued by a company organized solely for the purpose of identifying an acquisition target and exercisable into the common stock of such company upon entry into a binding agreement with respect to such acquisition.

Initial Listing Standards for Subscription Warrants

The Exchange will list Subscription Warrants subject to the following requirements:

(i) The issuer of the Subscription Warrants must be a company formed solely for the purpose of issuing the Subscription Warrants and consummating the acquisition of one or more operating businesses or assets with a value (calculated at the time of entry into the acquisition agreement) equal to at least 80% of the aggregate exercise price of the Subscription Warrants (an ''Acquisition'').

(ii) For a transaction to qualify as an Acquisition, the resultant entity must qualify for initial listing on the Exchange and the acquisition agreement must provide that the transaction will be consummated only if the resultant entity will be listed on the Exchange or another national securities exchange.

(iii) At the time of initial listing, the Subscription Warrants must: (A) Have an aggregate exercise price of at least $250 million; (B) have at least 1,100,000 publicly held Subscription Warrants outstanding, with an aggregate exercise price of at least $200 million; (C) have at least 400 holders of round lots; (D)

have an exercise price per share of common stock of at least $10.00; and (D) expire in no more than 10 years. For purposes of proposed Section 102.09, public holders of Subscription Warrants do not include those held by directors, officers, or their immediate families and other concentrated holdings of 10 percent.

(iv) The Subscription Warrants may not be fully exercisable for common stock of a company until after such company enters into a binding agreement with respect to the Acquisition and may not limit the ability of holders to exercise such warrants in full prior to the closing of such Acquisition.

(v) The proceeds of the exercise of the Subscription Warrants will be held in an interest-bearing custody account controlled by an independent custodian, pending the closing of such Acquisition.

(vi) The shares of common stock issued upon exercise of the Subscription Warrants will promptly be redeemed by the issuer of such Subscription Warrants for cash (A) upon termination of the acquisition agreement; or (B) if the Acquisition does not close within twelve months from the date of exercise of the Subscription Warrants, or such earlier time as is specified in the operative agreements. If the shares issuable upon exercise of the Subscription Warrants are redeemed, the holders will receive cash payments equal to their proportional share of the funds in the custody account, including any interest earned on those funds.

(vii) The sale of the Subscription Warrants and the issuance of the common stock of the issuer in exchange for the Subscription Warrants must both be registered under the Securities Act.

(viii) The issuer of the Subscription Warrants will be subject to the same corporate governance requirements under Section 303A hereof as an issuer of listed common stock.

(ix) the Acquisition must be approved by a majority of the independent directors of the issuer of the Subscription Warrants.

Continued Listing Standards for Subscription Warrants

The Exchange will immediately initiate suspension and delisting procedures of an issuer's Subscription Warrants if:

- The number of publicly-held Subscription Warrants is fewer than 100,000;
- the number of public holders of such Subscription Warrants is fewer than 100; or
- the total market capitalization of such Subscription Warrants is below $15 million over 30 consecutive trading days.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[4] in that it is designed 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Furthermore, the Exchange believes that the proposed listing standard is consistent with Section 6(b)(5) of the Act in that it contains requirements in relation to the listing of Subscription Warrants that provide adequate protections for investors and the public interest. In particular:

- The Subscription Warrants may not be fully exercisable for common stock of a company until after such company enters into a binding agreement with respect to the Acquisition and may not limit the ability of holders to exercise such warrants in full prior to the closing of such Acquisition.
- The proceeds of the exercise of the Subscription Warrants will be held in an interest-bearing custody account controlled by an independent custodian, pending the closing of such Acquisition.
- The shares of common stock issued upon exercise of the Subscription Warrants will promptly be redeemed by the issuer of such Subscription Warrants for cash (A) upon termination of the acquisition agreement; or (B) if the Acquisition does not close within twelve months from the date of exercise of the Subscription Warrants, or such earlier time as is specified in the operative agreements. If the shares issuable upon exercise of the Subscription Warrants are redeemed, the holders will receive cash payments equal to their proportional share of the funds in the custody account, including any interest earned on those funds.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of security and that will enhance competition among market participants, to the benefit of investors and the marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule would be available in a non-discriminatory way to any company satisfying its requirements, as well as all other applicable NYSE listing requirements. In addition, the Exchange faces competition for listings but the proposed rule change does not impose any burden on the competition with other exchanges; any competing exchange could similarly adopt rules to allow the listing of Subscription Warrants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2021–45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange

[4] 15 U.S.C. 78f(b)(5).

Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2021–45. 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–NYSE–2021–45, and should be submitted on or before October 1, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19509 Filed 9–9–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Wednesday, September 15, 2021.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: September 8, 2021.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2021–19667 Filed 9–8–21; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–451, OMB Control No. 3235–0509]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Extension:

Rule 301 of Regulation ATS

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 301 of Regulation ATS (17 CFR 242.301) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act'').

Regulation ATS provides a regulatory structure for alternative trading systems. Rule 301 of Regulation ATS contains certain record keeping and reporting requirements, as well as additional obligations that apply only to alternative trading systems with significant volume. The Rule requires all alternative trading systems that wish to comply with Regulation ATS to file an initial operation report on Form ATS. Alternative trading systems are also required to supply updates on Form ATS to the Commission describing material changes to the system, file quarterly transaction reports on Form ATS–R, and file cessation of operations reports on Form ATS. An alternative trading system with significant volume is required to comply with requirements for fair access and systems capacity, integrity, and security. Rule 301 also imposes certain requirements pertaining to written safeguards and procedures to protect subscribers' confidential trading information.

The Commission staff estimates that entities subject to the requirements of Rule 301 will spend a total of approximately 2,687 hours a year to comply with the Rule.

Regulation ATS requires ATSs to preserve any records, for at least three years, made in the process of complying with the systems capacity, integrity and security requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE,

[5] 17 CFR 200.30–3(a)(12).

Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: September 7, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19542 Filed 9–9–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–346, OMB Control No. 3235–0392]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, Washington, DC 20549–2736

Extension:
Rule 15g–3

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the existing collection of information provided for in Rule 15g–3—Broker or dealer disclosure of quotations and other information relating to the penny stock market (17 CFR 240.15g–3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15g–3 requires that brokers and dealers disclose to customers current quotation prices or similar market information in connection with transactions in penny stocks. The purpose of the rule is to increase the level of disclosure to investors concerning penny stocks generally and specific penny stock transactions.

The Commission estimates that approximately 178 broker-dealers will each spend an average of approximately 87.0833333 hours annually to comply with this rule. Thus, the total time burden is approximately 15,501 hours per year.

Rule 15g–3 contains record retention requirements. Compliance with the rule is mandatory. The required records are available only to the examination staff of the Commission and the self regulatory organizations of which the broker-dealer is a member.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o Cynthia Roscoe, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: September 7, 2021.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–19541 Filed 9–9–21; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 11533]

Notice of Shipping Coordinating Committee Meeting in Preparation for International Maritime Organization MSC 104 Meeting

The Department of State will conduct a public meeting of the Shipping Coordinating Committee at 10:00 a.m. on Thursday, September 30, 2021, by way of teleconference. Members of the public may participate up to the capacity of the teleconference phone line, which can handle 500 participants. To access the teleconference line, participants should contact the meeting coordinator, LCDR Jessica Anderson, by email at *jessica.p.anderson@uscg.mil.*

The primary purpose of the meeting is to prepare for the 104th session of the International Maritime Organization's (IMO) Maritime Safety Committee (MSC 104) to be held remotely from Monday, October 4, 2021 to Friday, October 8, 2021.

The agenda items to be considered at the advisory committee meeting mirror those to be considered at MSC 104, and include:

—Adoption of the agenda; report on credentials
—Decisions of other IMO bodies
—Consideration and adoption of amendments to mandatory instruments
—Capacity-building for the implementation of new measures
—Measures to improve domestic ferry safety
—Goal-based new ship construction standards
—Measures to improve domestic ferry safety
—Measures to enhance maritime security
—Piracy and armed robbery against ships
—Unsafe mixed migration by sea
—Formal safety assessment
—Human element, training and watchkeeping (report of the seventh session of the Sub-Committee)
—Navigation, communications and search and rescue (report of the eighth session of the Sub-Committee)
—Implementation of IMO instruments (report of the seventh session of the Sub-Committee)
—Application of the Committee's method of work
—Work programme
—Election of Chair and Vice-Chair for 2022
—Any other business
—Consideration of the report of the Committee on its 104th session

Please note: The IMO may, on short notice, adjust the MSC 104 agenda to accommodate the constraints associated with the virtual meeting format. Any changes to the agenda will be reported to those who RSVP and those in attendance at the meeting.

Those who plan to participate may contact the meeting coordinator, LCDR Jessica Anderson, by email at *Jessica.P.Anderson@uscg.mil,* or in writing at 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington DC 20593–7509. Members of the public needing reasonable accommodation should advise LCDR Jessica Anderson not later than September 28, 2021. Requests made after that date will be considered, but might not be possible to fulfill.

Additional information regarding this and other IMO public meetings may be found at: *https://www.dco.uscg.mil/IMO.*

(Authority: 22 U.S.C. 2656 and 5 U.S.C. 552)

Emily A. Rose,

Executive Secretary, Shipping Coordinating Committee, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2021–19525 Filed 9–9–21; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF STATE

[Public Notice 11523]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Jasper Johns: Mind/Mirror'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or

custodians for temporary display in the exhibition ''Jasper Johns: Mind/Mirror'' at the Philadelphia Art Museum, Philadelphia, Pennsylvania, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Matthew R. Lussenhop,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2021–19546 Filed 9–9–21; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 552 (Sub-No. 25)]

Railroad Revenue Adequacy—2020 Determination

AGENCY: Surface Transportation Board.

ACTION: Notice of decision.

SUMMARY: On September 7, 2021, the Board served a decision announcing the 2020 revenue adequacy determinations for the Nation's Class I railroads. Five Class I railroads (BNSF Railroad Company, CSX Transportation, Inc., The Kansas City Southern Railway Company, Soo Line Corporation, and Union Pacific Railroad Company) were found to be revenue adequate.

DATES: This decision is effective on September 7, 2021.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245–0333. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 10704(a)(3), the Board is required to make an annual determination of railroad revenue adequacy. A railroad is considered revenue adequate under 49 U.S.C. 10704(a) if it achieves a rate of return on net investment (ROI) equal to at least the current cost of capital for the railroad industry. For 2020, this number was determined to be 7.89% in *R.R. Cost of Capital—2020,* EP 558 (Sub-No. 24) (STB served Aug. 6, 2021). The Board then applied this revenue adequacy standard to each Class I railroad. Five Class I carriers (BNSF Railroad Company, CSX Transportation, Inc., The Kansas City Southern Railway Company, Soo Line Corporation, and Union Pacific Railroad Company) were found to be revenue adequate for 2020.

The decision in this proceeding is posted at *www.stb.gov.*

Decided: September 3, 2021.

By the Board, Board Members Begeman, Fuchs, Oberman, Primus, and Schultz.

Eden Besera,

Clearance Clerk.

[FR Doc. 2021–19539 Filed 9–9–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36534]

Arkansas-Oklahoma Railroad, Inc.—Lease and Operation Exemption With Interchange Commitment—BNSF Railway Company

Arkansas-Oklahoma Railroad, Inc. (AOK), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from BNSF Railway Company (BNSF) and operate an approximately 10.658 miles of rail line extending between milepost 134.037 and milepost 123.379 on BNSF's Shawnee Industrial Spur in Shawnee, Okla. (the Line).

The verified notice states that AOK and BNSF have entered into a lease agreement and that AOK will operate the Line after the transaction.

AOK certifies that its projected annual revenues from this transaction will not result in AOK's becoming a Class I or Class II rail carrier. Pursuant to 49 CFR 1150.42(e), which applies ''[i]f the projected annual revenue of the rail lines to be acquired or operated, together with the acquiring carrier's projected annual revenue, exceeds $5 million,'' AOK certified on July 29, 2021 that notice of the transaction was posted at the workplaces of current BNSF employees on the Line and was being served on the national offices of the labor unions for those employees.

As required under 49 CFR 1150.43(h)(1), AOK has disclosed in its verified notice that its lease agreement with BNSF contains an interchange commitment that affects interchange with carriers other than BNSF.[1] The affected interchange is with Union Pacific Railroad Company at Oklahoma City, Okla. AOK has provided additional information regarding the interchange commitment as required by 49 CFR 1150.43(h).

The earliest this transaction may be consummated is September 27, 2021 (60 days after the certification under 49 CFR 1150.42(e) was filed).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than September 20, 2021.

All pleadings, referring to Docket No. FD 36534, 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 AOK's representative: Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market Street, Suite 2620, Philadelphia, PA 19103.

According to AOK, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: September 7, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2021–19568 Filed 9–9–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36413 (Sub-No. 1)]

Midwest & Bluegrass Rail, LLC—Control Exemption—Vermilion Valley Railway Company, Inc., Camp Chase Rail, LLC, Youngstown & Southeastern Rail, LLC, Chesapeake & Indiana Railroad Company

Midwest & Bluegrass Rail, LLC (MB Rail), a noncarrier, has filed a verified

[1] A copy of the lease with the interchange commitment was submitted under seal. *See* 49 CFR 1150.43(h)(1).

notice of exemption pursuant to 49 CFR 1180.2(d)(2) to control Vermilion Valley Railway Company, Inc., Camp Chase Rail, LLC, Youngstown & Southeastern Rail, LLC, and Chesapeake & Indiana Railroad Company (collectively, the IB Carriers).

MB Rail states that it controls the IB Carriers through a management agreement, under which it provides day-to-day management services and oversight. (*See* Verified Notice 1–3; *see also id.,* Ex. A at 1, 5 (management agreement became effective on January 1, 2021).) A related entity (MB Rail IB, LLC) sought and obtained Board authorization for its control of the IB Carriers in 2020, but MB Rail did not. *See MB Rail IB, LLC—Acquis. & Continuance in Control Exemption—Chesapeake & Ind. R.R.,* FD 36413 (STB served July 1, 2020). MB Rail now seeks after-the-fact authorization for its earlier acquisition of control.

The exemption will become effective on September 25, 2021 (30 days after the verified notice was filed).

According to the verified notice of exemption, MB Rail currently controls only the four IB Carriers. However, in a notice that is being served concurrently in *Midwest & Bluegrass Rail—Control Exemption—TransKentucky Transportation Railroad,* Docket No. FD 36530, MB Rail is also being authorized to control TransKentucky Transportation Railroad, Inc. (TransKentucky).[1]

MB Rail represents that: (1) The IB Carriers do not connect to one another; (2) the transaction is not part of a series of anticipated transactions that would connect the IB Carriers with the rail lines of any carriers in MB Rail'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 17, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36413 (Sub-No. 1), 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 MB Rail's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to MB Rail, 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: September 7, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2021–19574 Filed 9–9–21; 8:45 am]

BILLING CODE 4915–01–P

[1] In that docket, MB Rail states that the rail line owned and operated by TransKentucky does not connect to any of the IB Carriers. MB Rail Verified Notice 1, Aug. 27, 2021, *Midwest & Bluegrass Rail—Control Exemption—TransKentucky Transp. R.R.,* FD 36530.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36530]

Midwest & Bluegrass Rail, LLC—Control Exemption—TransKentucky Transportation Railroad, Inc.

Midwest & Bluegrass Rail, LLC (MB Rail), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to acquire control of TransKentucky Transportation Railroad, Inc. (TransKentucky).

MB Rail states that TransKentucky owns and operates a rail line in Kentucky. MB Rail originally sought authorization to control TransKentucky in another docket, *Midwest & Bluegrass Rail, LLC—Control Exemption—TransKentucky Transportation Railroad,* Docket No. FD 36475. On August 26, 2021, MB Rail filed a motion to withdraw the verified notice in Docket No. FD 36475.

The transaction may be consummated on or after September 26, 2021, the effective date of the exemption (30 days after the verified notice was filed).

According to the verified notice of exemption, MB Rail currently controls four Class III carriers: Vermilion Valley Railroad Co., Inc.; Camp Chase Rail, LLC; Youngstown & Southeastern Rail, LLC; and Chesapeake & Indiana Railroad Co., Inc. (collectively, the IB Carriers).[1]

The verified notice indicates that: (1) The rail line owned and operated by TransKentucky does not connect with the rail lines of any of the rail carriers in MB Rail's corporate family; (2) the transaction is not part of a series of anticipated transactions that would connect the rail line owned and operated by TransKentucky with the rail lines of any carriers in MB Rail'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 17, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36530, 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 MB Rail's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to MB Rail, 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: September 7, 2021.

[1] MB Rail is receiving after-the-fact authorization to control the IB Carriers in a notice of exemption being served concurrently in *Midwest & Bluegrass Rail, LLC—Control Exemption—Vermilion Valley Railway,* FD 36413 (Sub-No. 1).

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2021–19571 Filed 9–9–21; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36539]

WRL LLC dba Rainier Rail—Lease and Operation Exemption—City of Tacoma Department of Public Works dba Tacoma Rail Mountain Division

WRL LLC dba Rainier Rail (WRL), a Class III railroad, has filed a verified notice of exemption pursuant to 49 CFR 1150.41 to lease from the City of Tacoma, Department of Public Works dba Tacoma Rail Mountain Division (Tacoma Rail) and operate an approximately 0.8-mile rail line between Tacoma Rail milepost 28.6 and milepost 27.8C near McKenna, in Pierce County, Wash. (the Line).

WRL states that the Line was previously operated by Tacoma Rail. WRL states that it has reached an agreement with Tacoma Rail that will allow WRL to lease and operate the Line upon the exemption's effective date.

According to WRL, the proposed transaction does not involve any provision or agreement that would limit future interchange with a third-party connecting carrier. Further, WRL certifies that its projected annual revenue will not exceed $5 million and will not result in the creation of a Class I or II rail carrier.

The earliest this transaction may be consummated is September 25, 2021, the effective date of the exemption (30 days after the verified notice was filed).

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 17, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36539, 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 WRL's representative: James H.M. Savage, 22 Rockingham Court, Germantown, MD 20874.

According to WRL, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: September 7, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2021–19517 Filed 9–9–21; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2022–2124]

Petition for Exemption; Summary of Petition Received; Choose Aerospace, Inc.

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 30, 2021.

ADDRESSES: Send comments identified by docket number FAA–2021–0594 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sean O'Tormey, telephone number 202–267–4044, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Timothy R. Adams,

Acting Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2021–0594.
Petitioner: Choose Aerospace, Inc.
Section(s) of 14 CFR Affected: § 65.77.
Description of Relief Sought: Choose Aerospace, Inc. is petitioning for an exemption from § 65.77 to the extent necessary to permit their students who have completed the non-certificated Choose Aerospace, Inc. aviation maintenance general curriculum to take the general written test requirement for a mechanic certificate as described in § 65.75.

[FR Doc. 2021–19540 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No.—2022–2089]

Petition for Exemption; Summary of Petition Received; Alitalia Societa Aerea Italiana

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal

Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 10, 2021.

ADDRESSES: Send comments identified by docket number FAA–2019–0943 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Keira Jones, (202) 267–9677, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Timothy R. Adams,

Acting Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2019–0943.

Petitioner: Alitalia Societa Aerea Italiana.

Section(s) of 14 CFR Affected: § 91.225(a), (b), and (d).

Description of Relief Sought: Alitalia Societa Aerea Italiana (ASAI) requests an exemption from § 91.225 because Alitalia is unable to demonstrate compliance with § 91.225(a), (b), and (d) ''Automatic Dependent Surveillance-Broadcast (ADS–B) Out equipment and use'' due to delays caused by supplier Technical Standard Order (TSO) non-compliance for Multi-Mode Receivers (MMR). ASAI requests a time-limited exemption to resolve the issue and demonstrate compliance with the operational requirements of § 91.225(a), (b), and (d).

[FR Doc. 2021–19543 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0047]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: YANSEA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0047 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0047 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0047, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel YANSEA is:

—*Intended Commercial Use of Vessel:* ''Passenger charter for hire.''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Palm Beach Gardens, FL)
—*Vessel Length and Type:* 51′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0047 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments

should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0047 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19594 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0133]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: INCENTIVE (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0133 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0133 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0133, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel INCENTIVE is:

—*Intended Commercial Use of Vessel:* ''Private charter operations, including sport fishing, for up to six passengers upon coastal waters of Florida and Massachusetts.''

—*Geographic Region Including Base of Operations:* ''Florida and Massachusetts.'' (Base of Operations: Cape Canaveral, FL)

—*Vessel Length and Type:* 48.8′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0133 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application,

and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0133 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority:49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19588 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0137]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SURRENDER (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0137 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0137 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0137, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov*.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SURRENDER is:

—*Intended Commercial Use of Vessel:* ''Will be using this vessel for sailing tours/charters.''
—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: Marina del Rey, CA)
—*Vessel Length and Type:* 33′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0137 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0137 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov*. Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy*. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19586 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0132]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: FOREVER FRIDAY (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0132 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Search MARAD–2021–0132 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0132, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov*.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel FOREVER FRIDAY is:

—*Intended Commercial Use of Vessel:* ''Private vessel charters, passengers only.''

—*Geographic Region Including Base of Operations:* ''Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York (excluding waters in New York Harbor), New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, California, Oregon, Washington, and Alaska (excluding waters in Southeastern Alaska).'' (Base of Operations: San Diego, CA)

—*Vessel Length and Type:* 37.8′ Sail.

The complete application is available for review identified in the DOT docket as MARAD 2021–0132 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the

commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0132 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19589 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0145]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: WELL SEAS'ND (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0145 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0145 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0145, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel WELL SEAS'ND is:

—*Intended Commercial Use of Vessel:* ''Short passenger vessel charters out of and around Bainbridge Island WA and the surrounding waters of Greater Puget Sound, with a maximum of 6 passengers and a certified boat captain, primarily for day-trip charters and sight-seeing.''

—*Geographic Region Including Base of Operations:* ''Washington'' (Base of Operations: Bainbridge Island, WA)

—*Vessel Length and Type:* 42′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0145 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the

commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0145 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(*Authority:* 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19596 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0126]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: JERICO 4 (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0126 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0126 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0026, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel JERICO 4 is:

—*Intended Commercial Use of Vessel:* ''Charter.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Miami, FL)

—*Vessel Length and Type:* 74.8′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0126 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0126 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(*Authority:* 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19593 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–20211–0128]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: KOUKLA (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0128 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0128 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0128, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel KOUKLA is:

—*Intended Commercial Use of Vessel:* ''Carrying of passengers for day and night cruises and overnight stays on the vessel.''

—*Geographic Region Including Base of Operations:* ''Maine, Massachusetts, Rhode Island, Connecticut, New York (excluding New York Harbor), Virginia, North Carolina, South Carolina, Florida (excluding Gulf Coast), California, Oregon, Washington, Alaska (excluding Southeastern AK), Hawaii, and Puerto Rico.'' (Base of Operations: Portsmouth, VA)

—*Vessel Length and Type:* 60.2′ Sail.

The complete application is available for review identified in the DOT docket as MARAD 2021–0128 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the

commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0128 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(*Authority:* 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19590 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0127]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: KB JR (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0127 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0127 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0127, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel KB JR is:

—*Intended Commercial Use of Vessel:* ''Recreational charters''

—*Geographic Region Including Base of Operations:* ''Florida, New York, and Rhode Island.'' (Base of Operations: Miami, FL)

—*Vessel Length and Type:* 69.6′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0127 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0127 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19591 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0141]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: VIMA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0141 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0141 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0141, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov*.

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel VIMA is:

— *Intended Commercial Use of Vessel:* ''Charter.''

—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Naples, FL)

—*Vessel Length and Type:* 62.7 Motor.

The complete application is available for review identified in the DOT docket as MARAD 2021–0141 at *http://www.regulations.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the

instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0141 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov*. Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy*. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121).

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19584 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0134]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: LIFE IS GOOD (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0134 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0134 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0134, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel LIFE IS GOOD is:

—*Intended Commercial Use of Vessel:* ''Carrying passenger vessel (6 and less).''

—*Geographic Region Including Base of Operations:* ''California.'' (Base of Operations: San Francisco, CA)

—*Vessel Length and Type:* 35′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0134 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised

that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0134 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(*Authority:* 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19587 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0146]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: X 2 SEA (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0146 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0146 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0146, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel X 2 SEA is:

—Intended Commercial Use of Vessel: ''Bareboat charters.''
—Geographic Region Including Base of Operations: ''California'' (Base of Operations: Marina del Rey, CA)
—Vessel Length and Type: 56′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0146 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English.

We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0146 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19581 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0148]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: YELLOW DOG (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0148 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0148 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0148, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel YELLOW DOG is:

—*Intended Commercial Use of Vessel:* ''Charter vessel.''
—*Geographic Region Including Base of Operations:* ''Florida'' (Base of Operations: Islamorada, FL)
—*Vessel Length and Type:* 46.2′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0148 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise

comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0148 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov*. Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19580 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0126]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: JERICO 4 (Motor); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0126 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0126 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0126, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel JERICO 4 is:

—*Intended Commercial Use of Vessel:* ''Charter.''

—*Geographic Region Including Base of Operations:* ''Florida.'' (Base of Operations: Miami, FL)

—*Vessel Length and Type:* 74.8′ Motor

The complete application is available for review identified in the DOT docket as MARAD 2021–0126 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0126 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(*Authority:* 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19592 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0142]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: VIOLETA (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0142 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0142 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0142, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel VIOLETA is:

—*Intended Commercial Use of Vessel:* ''Carrying passengers for hire.''
—*Geographic Region Including Base of Operations:* ''California'' (Base of Operations: Marina del Rey, CA)
—*Vessel Length and Type:* 51′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0142 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0142 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

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By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19583 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0139]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: TURTLE TRACKS (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0139 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0139 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0139, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel TURTLE TRACKS is:

—*Intended Commercial Use of Vessel:* ''Charter.''
—*Geographic Region Including Base of Operations:* ''Puerto Rico.'' (Base of Operations: Marina Pescadaria, PR)
—*Vessel Length and Type:* 42′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0139 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0139 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121).

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By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19585 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0149]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: AEGIS (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0149 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0149 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0149, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel AEGIS is:

—*Intended Commercial Use of Vessel:* ''Applicant intends to operate AEGIS as a mid-sized luxury charter vessel. AEGIS intends to provide a safe platform from which guests may experience multiday voyages and the exceptional aesthetics living on an OYSTER yacht.''

—*Geographic Region Including Base of Operations:* ''Puerto Rico and US waters contiguous thereto.'' (Base of Operations: Newport, RI)

—*Vessel Length and Type:* 72′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0149 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your

comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0149 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19595 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2021–0144]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: WEATHERLY (Sail); Invitation for Public Comments

AGENCY: Maritime Administration, Transportation (DOT).

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 12, 2021.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2021–0144 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Search MARAD–2021–0144 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is: U.S. Department of Transportation, MARAD–2021–0144, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: James Mead, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–459, Washington, DC 20590. Telephone 202–366–5723, Email *James.Mead@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel WEATHERLY is:

—*Intended Commercial Use of Vessel:* ''Carrying passengers for hire.''
—*Geographic Region Including Base of Operations:* ''East Coast of the United States, Maine to Florida'' (Base of Operations: Oxford, MD)
—*Vessel Length and Type:* 67′ Sail

The complete application is available for review identified in the DOT docket as MARAD 2021–0144 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES.** Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise

comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *http://www.regulations.gov,* keyword search MARAD–2021–0144 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to *www.regulations.gov,* as described in the system of records notice, DOT/ALL–14 FDMS, accessible through *www.dot.gov/privacy.* To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

* * * * *

By Order of the Acting Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2021–19582 Filed 9–9–21; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2021–0060]

NHTSA Safety Research Portfolio Public Meeting: Fall 2021

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

ACTION: Announcement of public meeting.

SUMMARY: NHTSA is announcing its 2021 safety research portfolio public meeting where the agency's Vehicle Safety Research and Behavioral Safety Research offices will present information on activities related to the agency's safety research programs. Representatives from across the research offices will present the information in a virtual panel format. Questions from the audience will be accepted following presentations in a format to be determined.

DATES: NHTSA will host the public meeting on October 19–21, 2021, from 11:00 a.m. to 4:00 p.m., Eastern Standard Time (EST) each day. The meeting will be held virtually. Registration to attend the meeting must be received no later than October 15, 2021. The public docket will remain open for comment for 90 days following the conclusion of the public meeting, until January 19, 2022.

ADDRESSES: The meeting will be held virtually via GoToWebinar. The virtual meeting's online access link and a detailed agenda will be provided upon registration. The meeting will also be recorded and made available after the event for offline viewing at *https://www.nhtsa.gov/events/research-public-meeting-2021* listed under the title of the public meeting.

Following the public meeting, you may send comments, identified by Docket No. NHTSA–2021–0060, by any of the following methods:

- *Federal Rulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays. To be sure someone is there to help you, please call 202–366–9826 before coming.
- *Fax:* 202–366–1767.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below.

Docket: For access to the docket go to *http://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

FOR FURTHER INFORMATION CONTACT: If you have questions about the public meeting, please contact Lisa Floyd at 202–366–4697, or by email at *Lisa.Floyd@dot.gov.*

SUPPLEMENTARY INFORMATION: Each year, NHTSA executes a broad array of research programs in support of Administration, DOT, and agency priorities. The agency's research portfolio covers program areas pertaining to vehicle safety including safety countermeasures implemented through the vehicle, its components, operations and use, accessibility considerations, alternative fuels, among others; and behavioral safety including safety countermeasures that pertain to the behavior and actions of drivers, occupants, and other road users, including vulnerable populations.

NHTSA holds Safety Research Portfolio public meetings to provide public outreach regarding research activities at NHTSA for both vehicle and behavioral safety, including expected near-term deliverables, and solicit stakeholder questions and input. NHTSA's Safety Research Portfolio meetings are historically held in-person. The agency's most recent Safety Research Portfolio public meeting was held on November 20–21, 2019. These meetings draw large numbers of attendees among automotive safety stakeholder groups, including international audience members. Due to the continued and varied global effects of the COVID–19 public health emergency, in an abundance of caution,

this year's meeting will be conducted virtually.

NHTSA technical research staff will discuss projects underway and allow time for meeting attendees to ask questions. Given the virtual nature of the event, all presented information will be available for download. Updates on this event will be available at *https://www.nhtsa.gov/events/research-public-meeting-2021* listed under the title of the public meeting.

Discussion of research projects will occur in the form of technical panel presentations, with the following topics planned:

- Day 1, October 19 (11 a.m. to 4 p.m. EST), Crash avoidance research panels including advanced driver assistance systems, human factors, Automated Driving Systems (ADS), and vehicle cybersecurity.
- Day 2: October 20 (11 a.m. to 4 p.m. EST), Behavioral safety panels presenting on speeding/speed management and risky driving behaviors followed by panels on vulnerable road user research and alternative fuels.
- Day 3: October 21 (11 a.m. to 4 p.m. EST), Crashworthiness research panels presenting on female crash safety, ADS crash safety, advanced crash test dummies, and occupant protection.

The agency invites comments on the information presented regarding research priorities, research goals, and additional research gaps/needs the public may believe NHTSA should be addressing. Select project work may be posted to the docket for which comments are also welcome. Slides presented at the public meeting will be posted to the docket subsequently for public viewing and a recording of the meeting will be made available after the event for offline viewing.

Public Participation

Registration is required for all attendees. There is no cost to register. Attendees should register at *https://www.nhtsa.gov/events/research-public-meeting-2021* by October 15, 2021. Please provide name, affiliation, email, and indicate whether you need an accommodation.

NHTSA is committed to providing equal access to this meeting for all participants. Persons with disabilities in need of an accommodation should contact Lisa Floyd at 202–366–4697, or via email at *Lisa.Floyd@dot.gov,* with your request as soon as possible. A sign language interpreter will be provided, and closed captioning services will be available for this meeting through the GoToWebinar's platform.

Should it become necessary to cancel or reschedule the meeting due to an unforeseen circumstance, NHTSA will take all available measures to notify registered participants as soon as possible. NHTSA will conduct the public meeting informally, and technical rules of evidence will not apply. The meeting will be recorded, and a recording will be made available after the event.

Comments: Comments may be submitted electronically or in hard copy during the 90-day comment period. Please submit all comments no later than January 22, 2022, following the close of the public meeting by any of the following methods:

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (Volume 65, Number 70; Pages 19477–78), or you may visit *http://www.regulations.gov/privacy.html.*

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information to the Chief Counsel, NHTSA, at 1200 New Jersey Avenue SE, Washington, DC 20590. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should submit a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512). To facilitate social distancing during COVID–19, NHTSA is temporarily accepting confidential business information electronically. Please see *https://www.nhtsa.gov/coronavirus/submission-confidential-business-information* for details.

Authority: 49 U.S.C. 30181–30182; delegation of authority at 49 CFR 1.95.

Issued in Washington, DC.

Cem Hatipoglu,

Associate Administrator for Vehicle Safety Research.

[FR Doc. 2021–19577 Filed 9–9–21; 8:45 am]

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DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Funding Opportunities: Capital Magnet Fund; 2021 Funding Round

Funding Opportunity Title: Notice of Funds Availability (NOFA) inviting Applications for the fiscal year (FY) 2021 Funding Round of the Capital Magnet Fund (CMF).

Announcement Type: Announcement of funding opportunity.

Funding Opportunity Number: CDFI–2021–CMF.

Catalog of Federal Domestic Assistance (CFDA) Number: 21.011.

Dates:

TABLE 1—FY 2021 CAPITAL MAGNET FUND FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline	Time (eastern time-ET)	Submission method
Last day to create an Awards Management Information System (AMIS) Account (if Applicant doesn't have one).	October 12, 2021.	11:59 p.m. ET.	Electronically via Awards Management Information System (AMIS).
Last day to enter or update the EIN and DUNS numbers in AMIS (all Applicants).	October 12, 2021.	11:59 p.m. ET.	Electronically via AMIS.
Last day to submit SF–424 Mandatory Form (Application for Federal Assistance).	October 12, 2021.	11:59 p.m. ET.	Electronically via *Grants.gov*.
Last day to contact Capital Magnet Fund Staff	November 4, 2021.	5:00 p.m. ET	Submit Service Request via AMIS; call CDFI Fund Helpdesk: 202–653–0421; or email *cmf@cdfi.treas.gov*.

TABLE 1—FY 2021 CAPITAL MAGNET FUND FUNDING ROUND CRITICAL DEADLINES FOR APPLICANTS—Continued

Description	Deadline	Time (eastern time-ET)	Submission method
Last day to submit CMF Application and Required Attachments.	November 9, 2021.	5:00 p.m. ET	Electronically via AMIS.

Executive Summary: The Capital Magnet Fund (CMF) is administered by the Community Development Financial Institutions Fund (CDFI Fund). Through the CMF, the CDFI Fund provides financial assistance grants to Community Development Financial Institutions (CDFIs) and to qualified Nonprofit Organizations that have the development or management of affordable housing as one of their principal purposes. All awards provided through this Notice of Funds Availability (NOFA) are subject to funding availability.

I. Program Description

A. Authorizing Statute and Regulation: The CMF was established through the Housing and Economic Recovery Act of 2008 (HERA), which added section 1339 to the Federal Housing Enterprises Financial Safety and Soundness Act of 1992. For a complete understanding of the program, the CDFI Fund encourages Applicants to review the CMF interim rule (12 CFR part 1807) as amended February 8, 2016 (the CMF Interim Rule); this NOFA; the CDFI Fund's environmental quality regulation (12 CFR part 1815); the CMF funding application (referred to hereafter as the ''Application,'' meaning the application submitted in response to this NOFA); and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000), which is the Department of the Treasury's codification of the Office of Management and Budget (OMB) government-wide framework for grants management at 2 CFR part 200 (Uniform Administrative Requirements or UAR). Each capitalized term used in this NOFA, but not defined herein, shall have the respective meanings assigned to them in the CMF Interim Rule, the Application, or the Uniform Administrative Requirements. Details regarding Application content requirements are found in the Application and related materials at *www.cdfifund.gov/cmf.*

B. History: The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994 to promote economic revitalization and community development through investment in and assistance to CDFIs. The CMF made its first awards in FY 2010, with subsequent funding rounds beginning in FY 2016 and occurring annually thereafter. To date, more than $740 million has been awarded under the CMF Program.

C. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR part 1000): The Uniform Administrative Requirements codify financial, administrative, procurement, and program management standards that Federal award-making agencies must follow. Per the Uniform Administrative Requirements, when evaluating award Applications, awarding agencies must evaluate each Applicant's merits, eligibility, and any risks to the program posed by each Applicant. These requirements are designed to ensure that Applicants for Federal assistance receive a fair and consistent review prior to an award decision. This review will assess items such as the Applicant's financial stability, quality of management systems, history of performance, and single audit findings. In addition, the Uniform Administrative Requirements include guidance on audit requirements and other award compliance requirements for award Recipients.

D. Priorities: The purpose of the CMF is to attract private capital for and increase investment in the Development, Preservation, Rehabilitation, or Purchase of Affordable Housing for primarily Extremely Low-Income, Very Low-Income, and Low-Income Families, as well as Economic Development Activities, which, In Conjunction With Affordable Housing Activities, implement a Concerted Strategy to stabilize or revitalize a Low-Income Area or Underserved Rural Area. To pursue these objectives, the CDFI Fund has established the following priorities for the FY 2021 Funding Round: (i) Applications where at least 20% of all rental Affordable Housing units that will be financed and/or supported with FY 2021 CMF Awards are targeted to Very Low-Income Families and/or at least 20% of all Homeownership Affordable Housing units that will be financed and/or supported with FY 2021 CMF Awards are targeted to Low-Income Families; (ii) Applications where rental Affordable Housing units are located in either Areas of Economic Distress (AED) [1] or High Opportunity Areas (HOA) [2]; and (iii) Applications where Homeownership Affordable Housing is either located in an AED (targeted to Eligible-Income Families; 120% AMI and below) or is targeted to Low-Income Families (80% AMI or below); and (iv) Applications proposing to use the CMF Award to leverage private capital to finance and/or support Affordable Housing Activities and Economic Development Activities. Additionally, the CDFI Fund seeks to fund Applications serving geographically diverse Areas of Economic Distress, including Metropolitan Areas and Underserved Rural Areas. In particular, the priority for geographic diversity includes funding highly qualified Applications that serve territories not included in the Service Areas of Recipients in the past two CMF rounds (FY 2019 and FY

[1] Areas of Economic Distress: Areas of Economic Distress are census tracts: (a) Where at least 20% of households that are Very Low-Income (50% of AMI or below) spend more than half of their income on housing; or (b) that are designated Qualified Opportunity Zones under 26 U.S.C 1400Z–1; or (c) that are Low-Income Housing Tax Credit Qualified Census Tracts; or (d) where greater than 20% of households have incomes below the poverty rate and the rental vacancy rate is at least 10%; or (e) where greater than 20% of the households have incomes below the poverty rate and the homeownership vacancy rate is at least 10%; or (f) are Underserved Rural Areas as defined in the CMF Interim Rule (as amended February 8, 2016; 12 CFR part 1807). The CDFI Fund will publish a dataset on its website indicating which census tracts are designated as Areas of Economic Distress for the FY 2021 Round.

[2] High Opportunity Area: The CMF Program uses the definition of High Opportunity Area found in the Federal Housing Finance Agency's Duty to Serve Rule for this term: (a) An area designated by the Department of Housing and Urban Development (HUD) as a ''Difficult Development Area'' during any year covered by an Enterprise's Underserved Markets Plan (Plan) or in the year prior to a Plan's effective date, whose poverty rate falls below 10% (for Metropolitan areas) or below 15% (for Non-Metropolitan areas); or (b) an area designated by a state or local Qualified Allocation Plan (QAP) as a high opportunity area whose poverty rate falls below 10% (for Metropolitan areas) or 15% (for Non-Metropolitan areas). The CDFI Fund will publish a dataset on its website indicating which census tracts are designated as High Opportunity Areas for the FY 2021 Round.

2020): American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands.

E. Funding limitations: The CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA.

II. Federal Award Information

A. Funding Availability: The CDFI Fund plans to award up to $380.2 million in grants for the CMF FY 2021 Round under this NOFA. Eligible organizations of all sizes are encouraged to apply, including new and previous Applicants, past CMF Recipients, and Applicants focused on Homeownership, Rental housing, or both. HERA prohibits the CDFI Fund from obligating more than 15% of the aggregate available in CMF Awards to any Applicant, its Subsidiaries and Affiliates in the same funding round. In past rounds, the CDFI Fund has typically provided awards smaller than the statutory cap. For example, for the FY 2020 funding round, awards ranged from $750,000 to $8,000,000, with an average award of $3.7 million. Given the larger amount of funding available for the FY 2021 CMF round compared with the FY 2020 CMF round, the CDFI Fund will consider award requests that significantly exceed the maximum award amounts made in past rounds. In addition, the CDFI Fund anticipates issuing more awards at various award sizes, including smaller awards. Given the administrative and compliance responsibilities for Recipients, the CDFI Fund will not accept Applications for the FY 2021 CMF Round that request less than $500,000 and will not provide awards below $500,000 to any CMF Award Recipient for the FY 2021 CMF Round.

The CDFI Fund reserves the right, in its sole discretion, to provide a CMF Award in an amount other than that which the Applicant requests. However, the Award amount will not exceed the Applicant's Award request as stated in its Application, nor will the Award amount be less than the Applicant's minimum Award request if one is provided in the Application. An Applicant may receive only one Award through the FY 2021 CMF Round, though one or more Affiliates of an Applicant, if eligible, may separately apply and be awarded.

B. Types of Awards: The CDFI Fund will provide CMF Awards in the form of grants. CMF Awards must be used to support the eligible activities as set forth in 12 CFR 1807.301. A CMF Award Recipient may not distribute the CMF Award to any Affiliate, Subsidiary, or third-party entity in any manner that would create a Subrecipient relationship (as defined in the Uniform Administrative Requirements) without the CDFI Fund's prior written consent. The Recipient of a CMF Award must retain all obligations related to the Award. This restriction does not prevent a Recipient from using its CMF Award to loan to or invest directly in an Affiliate (separate legal entity) or in a specific Project being undertaken by an Affiliate, unless the Affiliate received a CMF Award in the same funding round.

C. Limitations on using CMF Awards in conjunction with other CDFI Fund awards/allocations: 1. A CMF Award Recipient may not use its CMF Award for any project that also receives funding from other CDFI Fund program awards or allocations the Recipient (or any of its Affiliates) has received, except when the CMF Award dollars are used to finance/support a different ''phase'' of development in the same Project than that financed by other CDFI Fund awards or allocations. The separate phases of development financing are: (1) Predevelopment; (2) acquisition; (3) site work (preconstruction); (4) construction/rehabilitation; (5) permanent financing; and (6) bridge financing between two or more phases. Additionally, one or more Affiliated entities may not use CMF Award funds from the same funding round to finance/support the same Project, regardless of whether the funds are used in different phases of the Project.

The phase restriction above does not apply to the Recipient's prior CMF Awards. The Recipient may combine its multiple CMF Awards to provide financing on any Project, including financing the same phase of any Project. However, the Recipient may not deem the same costs as Eligible Project Costs under multiple CMF Awards and must prorate the unit production performance across its multiple CMF Awards. Similarly, Affiliates with CMF Awards from different rounds may only use those Awards to finance the same Project if they prorate Eligible Projects and unit production performance among the Affiliates (*i.e.,* Affiliates may not use the same Eligible Project Costs or housing units to meet Assistance Agreement requirements under separate CMF Awards).

If providing Homeownership assistance, a CMF Award may be used in conjunction with awards/allocations from other CDFI Fund programs only if the Project can be divided into such phases, and the CMF Award is used in a different phase from the other CDFI Fund program awards/allocations. To clarify, a CMF Award cannot be used for a Homeownership property that is permanently financed (or supported) by both the Recipient's (or any of its Affiliates') CMF Award and an award/allocation from another CDFI Fund program (*e.g.,* down payment assistance funded from CMF Award may not be combined with a permanent mortgage funded from another CDFI Fund program).

2. Costs financed and/or supported by the Recipient's other awards/allocations from CDFI Fund programs, including awards from prior CMF rounds, may not be counted or reported as Leveraged Costs for the CMF Award pursuant to this NOFA as further set forth in the Assistance Agreement. While the Recipient may combine its CMF Award pursuant to this NOFA with prior issued CMF Awards to finance/support the same Project, each CMF Award must separately meet the program requirements as outlined in the applicable Assistance Agreement and the CMF Interim Rule (12 CFR part 1807).

In all cases, the CMF Award remains subject to the following restriction imposed by the CDFI Bond Guarantee Program: Award funds received under any CDFI Fund program cannot be used by any participant of the CDFI Bond Guarantee Program, including Qualified Issuers, Eligible CDFIs, and Secondary Borrowers, to pay principal, interest, fees, administrative costs, or issuance costs (including Bond Issuance Fees) related to the CDFI Bond Guarantee Program, or to fund the Risk Share Pool for a Bond Issue (all capitalized terms used in this sentence, other than ''CMF Award,'' shall have the meanings ascribed to them in the CDFI Bond Guarantee Program regulations and applicable guidance).

D. Anticipated Start Date and Period of Performance: The CDFI Fund anticipates the period of performance for the FY 2021 CMF Round to begin in early 2022. The period of performance for each CMF Award begins with the date that the CDFI Fund announces the Recipients of FY 2021 CMF Awards and continues until the end of the ten-year period of affordability for all Projects financed and/or supported with the CMF Award, as set forth at 12 CFR 1807.401(d) and 12 CFR 1807.402, and as further set forth in the Assistance Agreement, during which time the Recipient must meet certain Performance Goals.

E. Eligible Activities: A CMF Award must support or finance activities that attract private capital for and increase investment in (i) the Development, Preservation, Rehabilitation, or Purchase of Affordable Housing for primarily Low-, Very Low-, and

Extremely Low-Income Families, and (ii) Economic Development Activities. CMF Awards may only be used as follows: (i) To provide Loan Loss Reserves, (ii) to capitalize a Revolving Loan Fund, (iii) to capitalize an Affordable Housing Fund, (iv) to capitalize a fund to support Economic Development Activities, (v) for Risk-Sharing Loans, or (vi) to provide Loan Guarantees. No more than 30% of a CMF Award may be used for Economic Development Activities. For the FY 2021 CMF Round, the CDFI Fund will allow all Recipients to use up to 5% of their CMF Award for Direct Administrative Expenses. The amount available for Direct Administrative Expenses may only be used for direct costs (as defined by the Uniform Administrative Requirements) incurred by the Recipient and related to the financing and/or support of a Project. The CDFI Fund considers the tracking of impacts and outcomes associated with Projects financed and/or supported by a CMF Award to fall under Direct Administrative Expenses. Any portion of the amount available for Direct Administrative Expenses may be used for direct costs related to the effective tracking and evaluation of program or evidence-based outcomes for Projects.

III. Eligibility Information

A. Eligible Applicants: In order to be eligible to apply for a CMF Award, an Applicant must either be a Certified CDFI or a Nonprofit Organization, as defined in 12 CFR 1807.104. Table 2 indicates the criteria that each category of Applicant must meet in order to be eligible for a CMF Award pursuant to this NOFA. *Note:* A Certified CDFI that is also a Nonprofit Organization only needs to meet the Certified CDFI eligibility criteria described in Table 2, below, in order to be eligible for a CMF Award.

TABLE 2—APPLICANT ELIGIBILITY REQUIREMENTS

Category	Eligibility requirements
Certified CDFI	• Has been in existence as a legally formed entity for at least 3 years prior to the AMIS Application deadline under this NOFA; • Has been determined by the CDFI Fund to meet the CDFI certification requirements set forth in 12 CFR 1805.201 and as verified in the CDFI's AMIS account as of the publication date of this NOFA; and • Has not been notified in writing by the CDFI Fund that its certification has been terminated. • In cases where the CDFI Fund has provided a Certified CDFI with written notification that it no longer meets one or more certification standards and has been given an opportunity to cure, the CDFI Fund will continue to consider this Applicant to be a Certified CDFI until it has received a final determination letter that its certification has been terminated. • Has audited financial statements encompassing its two most recently completed fiscal years prior to the publication date of this NOFA. A Regulated Institution that files call reports to its regulator is exempt from this requirement and must attach call reports for its two most recently completed fiscal years in lieu of audited financial statements.
Nonprofit Organization	• Has been in existence as a legally formed entity for at least 3 years prior to the AMIS Application deadline under this NOFA; • Meets the definition of Nonprofit Organization set forth in 12 CFR 1807.104. • Demonstrates, through articles of incorporation, by-laws, or other board-approved documents, that the development or management of affordable housing are among its principal purposes; and • Demonstrates by providing an attestation in the Application that at least 33.3% of its total assets are dedicated to the development or management of affordable housing. • Has audited financial statements encompassing its two most recently completed fiscal years prior to the publication date of this NOFA. A Regulated Institution that files call reports to its regulator is exempt from this requirement.
Debarment/Do Not Pay Verification.	• The CDFI Fund will conduct a debarment check and reserves the right, in its sole discretion, to not consider an Application submitted by an Applicant (or Affiliate of an Applicant) as eligible if the Applicant and/or Affiliate is delinquent on any Federal debt. • The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government. The Do Not Pay Business Center provides delinquency information to the CDFI Fund to assist with the debarment check.
System for Award Management (SAM).	• Each Applicant, including Affiliated Applicants, must have its own active SAM registration in order to submit the required Application materials through *Grants.gov*. • SAM is a web-based, government-wide application that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of the contract awards, grants, and electronic payment processes. See *SAM.gov* for more information. • Applicants must have a *login.gov* account to sign into SAM. Applicants must also have a DUNS number and an EIN in order to register in SAM. • Applicants must complete registration in SAM in order to be able to complete the *Grants.gov* registration and submit an SF–424. • The CDFI Fund reserves the right to deem an Application ineligible if the Applicant's SAM account expires during the Application evaluation period, or is set to expire before March 1, 2022, and the Applicant does not reactivate or renew (as applicable) the account within the deadlines that the CDFI Fund communicates to affected Applicants during the Application evaluation period.
Application type and submission method through *Grants.gov* and Awards Management Information System (AMIS).	• Each Applicant must submit the required Application documents listed in Table 4. • The CDFI Fund will only accept Applications that use the official Application templates provided on the *Grants.gov* and AMIS websites. Applications submitted with alternative or altered templates will not be considered.

TABLE 2—APPLICANT ELIGIBILITY REQUIREMENTS—Continued

Category	Eligibility requirements
	• Applicants undergo a two-step process that requires the submission of Application documents by two separate deadlines in two different locations: (1) The SF–424 in *Grants.gov* and (2) all other Required Application Documents in AMIS. • *Grants.gov* and the SF–424 Mandatory form: ○ Applicants must submit the Office of Management and Budget (OMB)-approved Standard Form (SF) 424 Mandatory (Application for Federal Assistance) form in *Grants.gov*. ○ All Applicants must register in the *Grants.gov* system to successfully submit an Application. The *Grants.gov* registration process can take 30 days or more to complete. The CDFI Fund strongly encourages Applicants to register as early as possible to meet the deadlines in Table 1. ○ The SF–424 must be submitted in *Grants.gov* before the other Application materials are submitted in AMIS. Applicants are strongly encouraged to submit their SF–424 as early as possible via the *Grants.gov* portal. ○ Because the SF–424 is part of the Application, if the SF–424 is not accepted by *Grants.gov* by the applicable deadline, the Applicant will not be able to submit the AMIS Application. ○ The SF–424 must be submitted under the FY 2021 CMF Funding Opportunity Number. ○ The CDFI Fund will not extend the SF–424 application deadline for any Applicant that started the *Grants.gov* registration process on, before, or after the date of the publication of this NOFA, but did not complete it by the deadline, except in the case of a Federal government administrative or technological error that directly resulted in a late submission of the SF–424. • AMIS: ○ Applicants must submit all other required Application materials in AMIS. ○ AMIS is the CDFI Fund's enterprise-wide information technology system that will be used to submit and store organization and Application information with the CDFI Fund. ○ Applicants are only allowed one Capital Magnet Fund. ○ Application submission per funding round in AMIS. ○ Affiliated entities must submit every component of the Application separate from its Affiliates. ○ Each Application in AMIS must be signed by an Authorized Representative. The Authorized Representative is an employee or officer of the Applicant, authorized to sign legal documents on behalf of the organization. *Consultants working on behalf of the organization may not be designated as Authorized Representatives.* ○ Only an Authorized Representative or Application Point of Contact included in the Application may submit the Application in AMIS. ○ All Required Application Documents must be submitted in AMIS on or before the deadline specified in Table 1. ○ The CDFI Fund will not extend the deadline for any Applicant except in the case of a Federal government administrative or technological error that directly resulted in the late submission of the Application in AMIS.
Employer Identification Number (EIN).	• Each Applicant must have a unique EIN assigned by the Internal Revenue Service (IRS). • The CDFI Fund will reject an Application submitted with the EIN of a parent or Affiliate of the Applicant. • The EIN in the Applicant's AMIS account must match the EIN on the SF–424 submitted through *Grants.gov* and the EIN in the Applicant's System for Award Management (SAM) account. The CDFI Fund reserves the right to reject an Application if the EIN in the Applicant's AMIS account does not match the EIN on the SF–424 and/or its SAM account. • The EIN of the Applicant must be entered into the AMIS organization profile by the applicable deadline in Table 1.
DUNS number	• Pursuant to OMB guidance (68 FR 38402), an Applicant must apply using its unique DUNS number in *Grants.gov*. • The CDFI Fund will reject an Application submitted with the DUNS number of a parent or Affiliate of the Applicant. • The DUNS number of the Applicant must be entered into the AMIS organization profile by the applicable deadline in Table 1. • The DUNS number in the Applicant's AMS account must match the Applicant's DUNS number on the SF–424 submitted through *Grants.gov* and its *SAM.gov* account. The CDFI Fund reserves the right to reject an Application if the DUNS number in the Applicant's AMIS account does not match the DUNS number on the SF–424 and/or *SAM.gov* accounts.
AMIS Account	• Each Applicant, including Affiliated Applicants, must register as an organization in AMIS and submit all required Application materials through the AMIS portal. • If the Applicant does not fully register its organization in AMIS by the deadline set forth in Table 1, its Application will be rejected without further consideration. • The Authorized Representative and Application Point of Contact must be included as ''users'' in the Applicant's AMIS account. • An Applicant that fails to properly register and update its AMIS account may miss important communications from the CDFI Fund or not be able to successfully submit an Application.
501(c)(4) status	• Pursuant to 2 U.S.C. 1611, any 501(c)(4) organization that engages in lobbying activities is not eligible to apply for or receive a CMF Award.
Compliance with Non-discrimination and Equal Opportunity Statutes, Regulations, and Executive Orders.	• An Applicant may not be eligible to receive an award if proceedings have been instituted against it in, by, or before any court, governmental agency, or administrative body, and a final determination, issued within the last 3 years as of the publication date of this NOFA, indicates the Applicant has violated any of the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107); Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601 et seq.); Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and Title IX of the Education Amendments of 1972.

TABLE 2—APPLICANT ELIGIBILITY REQUIREMENTS—Continued

Category	Eligibility requirements
Depository Institution Holding Company Applicant.	• In the case where a CDFI Depository Institution Holding Company Applicant intends to carry out the activities of its award through its Subsidiary CDFI Insured Depository Institution, the Application must be submitted by the CDFI Depository Institution Holding Company and reflect the activities and financial performance of the Subsidiary CDFI Insured Depository Institution. • The Authorized Representative of the Depository Institution Holding Company Applicant must certify that the information included in the Application represents that of the Subsidiary CDFI Insured Depository Institution, and that the Award will be used to support the Subsidiary CDFI Insured Depository Institution for the eligible activities outlined in the Application.
Regulated Institutions[3]	• To be eligible for an Award, each Regulated Institution Applicant must have a CAMELS/CAMEL composite rating (rating for banks and credit unions, respectively), by its Federal regulator of at least ''3.'' • Organizations with CAMELS/CAMEL composite ratings of ''4'' or ''5'' will not be eligible for awards. • Organizations with a Prompt Corrective Action directive from its regulator will not be eligible for awards. • The CDFI Fund will also evaluate material concerns identified by the Appropriate Federal Banking Agency in determining eligibility of Regulated Institution Applicants.

Any Applicant that does not meet the criteria in Table 2 is ineligible to apply for a CMF Award under this NOFA. Further, Section III.B describes additional considerations applicable to prior Recipients and/or allocatees under any CDFI Fund program.

B. Prior Award Recipients: Eligibility determinations in prior funding rounds have no bearing on and do not guarantee eligibility in this round. Prior CMF Award Recipients and prior award recipients of other CDFI Fund programs will be eligible to apply under this NOFA if they meet the eligibility criteria in Table 2, except as noted in Table 3.

TABLE 3—ELIGIBILITY REQUIREMENTS FOR APPLICANTS WHICH ARE PRIOR AWARD/ALLOCATION RECIPIENTS

Criteria	Description
Pending resolution of noncompliance.	• If an Applicant (or Affiliate of an Applicant) that is a prior recipient or allocatee under any CDFI Fund program: (i) Has demonstrated it has been in noncompliance with a previous assistance agreement, award agreement, allocation agreement, bond loan agreement, or agreement to guarantee and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in noncompliance with or default of its previous agreement, the CDFI Fund will consider the Applicant's Application under this NOFA pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance.
Default or Noncompliance status.	• The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI Fund award recipient or allocatee under any CDFI Fund program if, as of the AMIS Application deadline of this NOFA, the CDFI Fund has made a final determination in writing that such Applicant (or Affiliate of such Applicant) is in noncompliance with or default of a previously executed assistance agreement, award agreement, allocation agreement, bond loan agreement, or agreement to guarantee. • Such entities will be ineligible to apply for an Award pursuant to this NOFA if the CDFI Fund has provided written notification that such entity is ineligible to apply for or receive any future CDFI Fund awards or allocations. Such entities will be ineligible to submit an application for such time period as specified by the CDFI Fund in writing.

C. Contacting the CDFI Fund: Applicants that are prior Recipients and/or allocatees under any CDFI Fund program are advised to comply with requirements specified in an Assistance Agreement, allocation agreement, bond loan agreement, or agreement to guarantee, and to ensure their Affiliates are in compliance with any agreements. All outstanding reporting and compliance questions should be directed to the Office of Certification, Compliance Monitoring, and Evaluation help desk by AMIS Service Requests (select ''Capital Magnet Fund'' for ''Program''), via email *CCME@cdfi.treas.gov,* or by telephone at *(202) 653–0421.* For general questions, organizations with an AMIS account are strongly encouraged to submit a Service Request in AMIS using ''Capital Magnet Fund'' for the Service Request program. Members of the public that do not have AMIS accounts can contact Capital Magnet Fund staff via email at *CMF@cdfi.treas.gov.* The CDFI Fund will not respond to Applicants' reporting, compliance, or disbursement telephone calls or email inquiries that are received after 5:00 p.m. ET on November 4, 2021 until after the Application deadline. The CDFI Fund will respond to technical issues related to AMIS Accounts through 5:00 p.m. ET on November 9, 2021, via AMIS Service Requests, or at *AMIS@cdfi.treas.gov,* or by telephone at (202) 653–0422.

D. Cost sharing or matching funds requirements: Not applicable.

E. Other Eligibility Criteria:

1. Affiliates: As part of the Application review process, the CDFI Fund considers whether Applicants are Affiliates, as such term is defined in 12 CFR1807.104. Affiliates may submit separate Applications under this NOFA. However, each Affiliate submitting an Application must meet all of the eligibility requirements on its own behalf and may not rely on any other organization for eligibility purposes. Moreover, an Applicant must propose a substantially different strategy than its Affiliate(s) applying under this NOFA. It must also present a distinct project pipeline and rely on its own track record and not the track record of any Affiliate also submitting an Application under this NOFA. If the CDFI Fund deems that the Applications submitted

[3] Regulated Institutions include Insured Credit Unions, Insured Depository Institutions, State-Insured Credit Unions, and Depository Institution Holding Companies.

by Affiliates contain overlapping or substantially similar pipelines or strategies, the CDFI Fund may, at its discretion, reject all such Applications received or select only one of the submitted Applications to deem eligible, assuming that Application meets all other eligibility criteria in Section III of this NOFA. Collectively, all Affiliates may not request more than 15% of the total amount available under this NOFA.

2. An Applicant will not be eligible to receive a CMF Award if the Applicant fails to demonstrate in the Application that its CMF Award would result in Eligible Project Costs (Leveraged Costs plus those costs funded by the CMF Award) that equal at least 10 times the amount of the CMF Award. Note that no costs attributable to Direct Administrative Expenses may be considered Eligible Project Costs.

IV. Application and Submission Information

A. Address to Request Application Package: Application materials can be found on *Grants.gov* and the CDFI Fund's website at *www.cdfifund.gov/cmf.* If an Applicant is unable to access *Grants.gov* or the CDFI Fund's website, an Applicant may request a paper version of any Application material by contacting the CDFI Fund Help Desk by email at *cmf@cdfi.treas.gov* or by phone at (202) 653–0421.

B. Content and Form of Application Submission: The CDFI Fund will post to its website, at *www.cdfifund.gov/cmf,* instructions for accessing and submitting an Application. Detailed Application content requirements are found in the Application and related guidance documents. All Applications must be prepared in English and calculations must be made in U.S. dollars. Table 4 lists the required funding Application documents for the FY 2021 CMF Round. Applicants must submit all required documents for the Application to be deemed complete. Please be aware that an Applicant that fails to submit audited financial statements for its two most recently completed fiscal years will be deemed as not having a complete Application and will be considered ineligible. A Regulated Institution that submits call reports for its two most recently completed fiscal years is exempted from this requirement. The CDFI Fund reserves the right to request and review other pertinent or public information that has not been specifically requested in this NOFA or the Application. Information submitted by the Applicant that the CDFI Fund has not specifically requested will not be reviewed or considered as part of the Application. Information submitted must accurately reflect the Applicant's activities and/or its Subsidiary Insured Depository Institution, in the case where the Applicant is an Insured Depository Institution Holding Company.

TABLE 4—FUNDING APPLICATION DOCUMENTS

Application document	Submission format	Required?
Standard Form (SF) 424 Mandatory Form	Fillable PDF in *Grants.gov*.	Required for all Applicants.
CMF Application	AMIS	Required for all Applicants.
ATTACHMENTS TO THE APPLICATION		
Audited financial statements for the most recently completed 2 fiscal years. Regulated Institutions may submit call reports in lieu of audited financial statements.	PDF in AMIS	Required for all Applicants.
Any Management Letters, if applicable, related to the audited financial statements for the most recently completed 2 fiscal years. The Management Letter is prepared by the Applicant's auditor and provides communication on internal control over financial reporting, compliance, and other matters.[4] If no Management Letter was issued for either of the two most recently completed fiscal years, the Applicant must attach a document explicitly stating such.	PDF in AMIS	Required for all Applicants.
State Charter, Articles of Incorporation, authorizing statute, or other establishing documents designating that the Applicant is a nonprofit or not-for-profit entity under the laws of the organization's State of formation.	PDF in AMIS	Required only for Applicants that are *not* Certified CDFIs.
A certification demonstrating tax exempt status from the IRS. Only Applicants that are governmental instrumentalities, and are unable to provide such determination from the IRS and meet all other eligibility requirements, must submit a legal opinion from counsel, in form and substance acceptable to the CDFI Fund, opining that the Applicant is exempt from Federal income tax.	PDF in AMIS	Required only for Applicants that are *not* Certified CDFIs.
Articles of incorporation, by-laws, authorizing statute, or other documents demonstrating that the Applicant has a principal purpose of managing or developing affordable housing.	PDF in AMIS	Required only for Applicants that are *not* Certified CDFIs.

The CDFI Fund has a sequential, two-step process that requires the submission of Application documents in separate systems with two separate deadlines. The SF–424 must be submitted through *Grants.gov* and all other Application documents through the AMIS portal. The CDFI Fund will not accept Applications via email, mail, facsimile, or other forms of communication, except in extremely rare circumstances that have been pre-approved by the CDFI Fund. The separate Application deadlines for the SF–424 and all other Application materials are listed in Tables 1 and 6. Only the Authorized Representative for the Organization or Application Point of Contact designated in AMIS may submit the Application through AMIS.

Applicants are strongly encouraged to submit the SF–424 as early as possible through *Grants.gov* in order to provide

[4] The Management Letter may include suggestions for improving identified weaknesses and deficiencies and/or best practice suggestions for items that may not be considered to be weaknesses or deficiencies. The Management Letter may also include items that are not required to be disclosed in the annual audited financial statements. The Management Letter is distinct from the auditor's Opinion Letter, which is required by Generally Accepted Accounting Principles (GAAP). Management Letters are not required by GAAP and are sometimes provided by the auditor as a separate letter from the audit itself.

sufficient time to resolve any potential submission issues. Applicants should contact *Grants.gov* directly with questions related to the registration or submission process, as the CDFI Fund does not administer the *Grants.gov* system.

The CDFI Fund strongly encourages Applicants to start the *Grants.gov* registration process as soon as possible, as it may take several weeks to complete (refer to the following link: *http://www.grants.gov/web/grants/register.html*). An Applicant that has previously registered with *Grants.gov* must verify that its registration is current and active. If an Applicant has not previously registered with *Grants.gov*, it must first successfully register in *SAM.gov*, as described in Section IV.D below.

C. Dun and Bradstreet Data Universal Numbering System (DUNS): Pursuant to the Uniform Administrative Requirements, each Applicant must provide as part of its Application submission a valid Dun & Bradstreet Data Universal Numbering System (DUNS) number. Any Applicant without a DUNS number will not be able to register in SAM or register and submit an Application in the *Grants.gov* system. Please allow sufficient time for Dun & Bradstreet to respond to inquiries and/or requests for DUNS numbers.

D. System for Award Management (SAM): Any entity applying for Federal grants or other forms of Federal financial assistance through *Grants.gov* must be registered in SAM before submitting its Application materials through that platform. When accessing *SAM.gov*, users will be asked to create a *login.gov* user account (if they don't already have one). Going forward, users will use their *login.gov* username and password every time when logging into *SAM.gov*. The SAM registration process can take four weeks or longer to complete so Applicants are strongly encouraged to begin the registration process upon publication of this NOFA in order to avoid potential Application submission issues. An original, signed notarized letter identifying the authorized entity administrator for the entity associated with the DUNS number is required by SAM and must be mailed to the Federal Service Desk. This requirement is applicable to new entities registering in SAM or on existing registrations where there is no existing entity administrator. Existing entities with registered entity administrators do not need to submit an annual notarized letter. Applicants without DUNS and/or EIN numbers should allow for additional time as an Applicant cannot register in SAM without those required numbers. Applicants that have previously completed the SAM registration process must verify that their SAM accounts are current and active.

Applicants are required to maintain a current and active SAM account at all times during which it has an active Federal award or an Application under consideration for an award by a Federal awarding agency.

The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account and, as a result, is unable to submit the SF–424 in *Grants.gov* or the Application by the applicable Application deadline. Applicants must contact SAM directly with questions related to registration or SAM account changes, as the CDFI Fund does not maintain this system. For more information about SAM, please visit *https://www.sam.gov* or call 866–606–8220.

TABLE 5—GRANTS.GOV REGISTRATION TIMELINE SUMMARY

Step	Agency	Estimated minimum time to complete
Obtain a DUNS number	Dun & Bradstreet	One Week *
Obtain an EIN Number	Internal Revenue Service (IRS)	Two Weeks *
Register in *SAM.gov*	System for Award Management (SAM)	Four Weeks *
Register in *Grants.gov*	*Grants.gov*	One Week **

* Applicants are advised that the stated duration are estimates only and represent minimum timeframes. Actual timeframes may take longer. The CDFI Fund will not consider any Applicant that fails to properly register or activate its SAM account, has not yet received a DUNS number, and/or fails to properly register in *Grants.gov*.

** This estimate assumes an Applicant has a DUNS number, an EIN number, and is already registered in *SAM.gov*.

E. Submission Dates and Times:

1. Submission Deadlines: Table 6 lists the deadlines for submission of the documents related to the FY 2021 CMF Funding Round:

TABLE 6—FY 2021 CMF DEADLINES FOR APPLICANTS

Document	Deadline	Time—eastern time (ET)	Submission method
SF–424 Mandatory form	October 12, 2021	11:59 pm ET	Electronically via *Grants.gov*.
Create AMIS Account (if the Applicant does not already have one).	October 12, 2021	11:59 pm ET	Electronically via AMIS.
CMF Application and Required Attachments.	November 9, 2021	5:00 pm ET	Electronically via AMIS.

2. Confirmation of Application Submission in *Grants.gov* and AMIS: Applicants are required to submit the SF–424 Mandatory Form through the *Grants.gov* system under the FY 2021 Capital Magnet Fund Funding Opportunity Number (listed at the beginning of this NOFA). All other required Application materials must be submitted through the AMIS website. Application materials submitted through each system are due by the applicable deadline listed in Table 6. Applicants must submit the SF–424 by an earlier deadline than that of the other required Application materials in AMIS. If a valid SF–424 is not submitted through *Grants.gov* by the corresponding deadline, the Applicant will not be able to submit the additional Application materials in AMIS, and the Application will be deemed ineligible. Thus, Applicants are strongly encouraged to submit the SF–424 as

early as possible in the *Grants.gov* portal, given that potential submission issues may impact the ability to submit a complete Application. Applicants must also ensure that their AMIS account contains the correct EIN and DUNS numbers by the deadline listed in Table 1 of this NOFA.

(a) *Grants.gov* Submission Information: Each Applicant will receive an initial email from *Grants.gov* immediately after submitting the SF–424, confirming that the submission has entered the *Grants.gov* system. This email will contain a tracking number for the submitted SF–424. Within 48 hours, the Applicant will receive a second email which will indicate if the submitted SF–424 was either successfully validated or rejected with errors. However, Applicants should not rely on the email notification from *Grants.gov* to confirm that their SF–424 was validated.

Applicants are strongly encouraged to use the tracking number provided in the first email to closely monitor the status of their SF–424 by checking *Grants.gov* directly. The Application materials submitted in AMIS are not accepted by the CDFI Fund until *Grants.gov* has validated the SF–424. In the *Grants.gov* Workspace function, please note that the Application package has not been submitted if you have not received a tracking number.

(b) *AMIS Submission Information:* AMIS is a web-based portal where Applicants will directly enter their Application information and add required attachments listed in Table 4. Each Applicant must register as an organization in AMIS in order to submit the required Application materials through this portal. AMIS will verify that the Applicant provided the minimum information required to submit an Application. Applicants are responsible for the quality and accuracy of the information in the Application and in the attachments included in the Application submitted in AMIS. The CDFI Fund strongly encourages the Applicant to allow sufficient time to confirm the Application content, review the material submitted, and remedy any issues prior to the Application deadline. Applicants can only submit one Application in AMIS. Upon submission, the Application will be locked and cannot be resubmitted, edited, or modified in any way. The CDFI Fund will not unlock or allow multiple AMIS Application submissions.

Prior to submission, each Application in AMIS must be signed by an Authorized Representative. An Authorized Representative is an employee or officer that has the authority to legally bind and make representations on behalf of the Applicant; consultants working on behalf of the Applicant cannot be designated as Authorized Representatives. The Applicant may include consultants as Application point(s) of contact, who will be included on any communication regarding the Application and will be able to submit the Application but cannot digitally sign the Application. The Authorized Representative and/or Application point(s) of contact must be included as ''Contacts'' in the Applicant's AMIS account. The Authorized Representative must also be a ''user'' in AMIS. An Applicant that fails to properly register and update its AMIS account may miss important communications from the CDFI Fund or fail to submit an Application successfully. Only an Authorized Representative for the organization or an Application point of contact can submit the Application in AMIS. After submitting its Application, the Applicant will not be permitted to revise or modify its Application in any way.

3. *Multiple Application Submissions:* Each Applicant is only permitted to submit one complete Application in AMIS. However, the CDFI Fund does not administer *Grants.gov*, which does allow for multiple submissions of the SF–424. If an Applicant submits multiple SF–424 Applications in *Grants.gov*, the CDFI Fund will only review the SF–424 Application submitted in *Grants.gov* that is attached to the AMIS Application.

4. *Late Submission:* The CDFI Fund will not accept an Application if a valid SF–424 is not submitted by *Grants.gov* by the SF–424 deadline. Additionally, the CDFI Fund will not accept an Application if it is not signed by an Authorized Representative and submitted in AMIS by the Application deadline. In either case, the CDFI Fund will not review any material submitted and the Application will be deemed ineligible, except where the submission delay was a direct result of a Federal government administrative or technological error. This exception includes any errors associated with *Grants.gov*, *SAM.gov*, AMIS, or any other applicable government system. Please note that this exception does not apply to errors arising from obtaining a DUNS number from Dun & Bradstreet, which is not a government entity. An Applicant unable to make timely submission of its Application due to any errors in the process of obtaining a DUNS number will not be allowed to submit its Application after the Application deadline has passed.

(a) *SF–424 Late Submission:* In cases where a Federal government administrative or technological error directly resulted in the late submission of the SF–424, the Applicant must submit a Service Request in AMIS for acceptance of the late SF–424 submission and include documentation of the error no later than two business days after the SF–424 deadline. The CDFI Fund will not respond to requests for acceptance of late SF–424 submissions after that time period. Applicants must submit late SF–424 submission requests to the CDFI Fund via an AMIS service request to the CMF Program with a subject line of ''CMF Late SF–424 Submission Request.''

(b) *Application Late Submission:* In cases where a Federal government administrative or technological error directly resulted in a late submission of the Application in AMIS, the Applicant must submit a Service Request in AMIS for acceptance of the late Application submission and include documentation of the error no later than two business days after the Application deadline. The CDFI Fund will not respond to requests for acceptance of late Application submissions after that time period. Applicants must submit late Application submission requests to the CDFI Fund via an AMIS service request to the CMF Program with a subject line of ''CMF Late Application Submission Request.''

5. *Intergovernmental Review:* Not Applicable.

6. *Funding Restrictions:* CMF Awards are limited by the following:

(a) A Recipient shall use CMF Award funds only for the eligible activities set forth in 12 CFR 1807.301 and as described in Section II.C and Section II.E of this NOFA and its Assistance Agreement.

(b) A Recipient may not disburse CMF Award funds to an Affiliate, Subsidiary, or any other entity in any manner that would create a Subrecipient relationship (as defined in the Uniform Administrative Requirements) without the CDFI Fund's prior written approval.

(c) CMF Award dollars shall only be paid to the Recipient.

(d) The CDFI Fund, in its sole discretion, may pay CMF Awards in amounts, or under terms and conditions, which are different from those requested by an Applicant. However, the CDFI Fund will not grant an Award in excess of the amount requested by the Applicant.

V. Application Review Information

A. Criteria: All complete and eligible Applications will be reviewed in accordance with the criteria and procedures described in the CMF Interim Rule, this NOFA, the Application guidance, and the Uniform Administrative Requirements. As part of the review process, the CDFI Fund reserves the right to contact the Applicant by telephone, email, mail, or through an on-site visit for the sole purpose of clarifying or confirming Application information at any point during the review process. The CDFI Fund reserves the right to collect such additional information from Applicants as it deems appropriate. If contacted, the Applicant must respond within the time period communicated by the CDFI Fund or its Application may be rejected. For the sake of clarity, specific Application evaluation criteria are described in the context of the overall Application review and selection process described in Section V.B. below.

B. Review and Selection Process: The CDFI Fund will evaluate each complete and eligible Application using the multi-phase review process described in this Section. For the first part of the review process, the External Review, the Applications will be grouped into two categories depending on their approach: (1) Financing entities and (2) affordable housing developers/managers. All Applicants will be able to select whether they are applying with a financing entity approach or with an affordable housing developer/manager approach. However, all eligibility requirements, as either a certified CDFI or Nonprofit Organization, must be met. In most cases, CDFIs will select the financing entity approach; however, a CDFI that is applying with a strategy to act as an affordable housing developer and has a track record as an affordable housing developer, can select the affordable housing developer/manager entity approach. The Applications of these two groups will be evaluated based on the criteria listed in this section. Where appropriate, the CDFI Fund will use different criteria in order to evaluate the financial health, capacity, portfolio performance, and projected activities of the Applicant based on these distinct approaches. These differences are noted in the following sections and the Application Instructions.

1. *External Review and Quantitative Assessment:* All eligible Applications will be evaluated through a Quantitative Assessment and External Review. The Quantitative Assessment evaluates the Application's quantitative factors and is performed automatically in AMIS. In the External Review, Applications will be separately scored by two or more external non-Federal reviewers who are selected based on criteria that include: A professional background in affordable housing or in community and economic development finance with experience with affordable housing. These reviewers must complete the CDFI Fund's conflict of interest process and be approved by the CDFI Fund. Reviewers will be assigned a set number of Applications to review, consisting of either Applicants with a financing entity approach or Applicants with an affordable housing developer/manager approach. The reviewer will provide a score for each of the Applications assessed in accordance with the scoring criteria outlined in Section V.B.2 of this NOFA and the Application materials.

The external reviewer's evaluation, in combination with the quantitative assessment factors, will result in the Application being awarded up to 100 points for each review scorecard. The majority of the score will be based on the external reviewer's evaluation. These points will be distributed across three sections: Business and Leveraging Strategy (40 possible points), Community Impact (35 possible points), and Organizational Capacity (25 possible points). As each Application is evaluated by two external reviewers, the maximum score each Application can receive is 200 points (100 points × 2 Reviewers).

(a) *Business and Leveraging Strategy (40 points):* In the Business and Leveraging Strategy section, the Applicant will address: (i) The needs of communities and persons in the areas it proposes to serve with a CMF Award and the extent to which the proposed strategy addresses these needs; (ii) the affordable housing, economic development, and financing gaps addressed by its business strategy; (iii) the projected CMF activities and relevant track record; (iv) the role CMF will play in its project financing strategy; (v) its strategy for leveraging private capital with a CMF Award; and (vi) its strategy for leveraging its CMF Award at the Enterprise-level, through re-investments, and/or at the Project-level (as applicable).

An Applicant will generally score more favorably in the criteria evaluated by the external review and by the quantitative assessment factors to the extent that it: (i) Clearly aligns its proposed CMF Award activities with the affordable housing needs and financing gaps it identifies; (ii) demonstrates that its CMF Award activities will result in more favorable financing rates and terms to Projects; (iii) demonstrates that its projected activities are achievable based on the Applicant's strategy and track record; (iv) describes a process for selecting projects that have a clear need for CMF financing; (v) has a credible pipeline of projects or can demonstrate clear demand for its proposed financial products from borrowers; (vi) has a clear strategy for and track record of leveraging private capital resulting in a higher multiplier of private leverage; (vii) has a clear strategy for attracting capital and demonstrates a track record of leveraging funds at the Enterprise-level, through re-investments, and/or at the Project-level (as applicable); and (viii) whether the Application is proposing to serve American Samoa, Guam, the Northern Mariana Islands, or the U.S. Virgin Islands.

(b) *Community Impact (35 points):* In the Community Impact Section, the Applicant will address: (i) The extent to which the Applicant's strategy is likely to result in the selected Affordable Housing and/or Economic Development Activities impacts and its plan to track relevant outcome metrics; (ii) for rental housing, (a) its strategy for and track record of financing and/or supporting rental housing units located in Areas of Economic Distress or High Opportunity Areas; and (b) its strategy for and track record of financing rental housing units targeted to Very Low-Income (VLI) Families (50% of AMI or below); (iii) for Homeownership housing, its strategy for and track record of financing Homeownership units targeted to Low-Income (LI) Families (80% of AMI or below) or units located in Areas of Economic Distress ; (iv) if applicable, its strategy for and track record of financing and/or supporting Economic Development Activities and how the projected activities will align with a Concerted Strategy and will benefit the residents of nearby Affordable Housing; and (v) commitment to and track record of serving Rural Areas.

An Applicant will generally score more favorably in the criteria evaluated by the external reviewer and by the quantitative assessment factors to the extent that it: (i) Demonstrates a clear strategy for achieving the selected Affordable Housing and/or Economic Development Activities impacts identified in the Application and it presents a clear and effective plan to track metrics related to relevant outcomes; (ii) if rental housing is proposed, demonstrates a compelling strategy for and track record of financing and/or supporting rental housing units located in Areas of Economic Distress and/or High Opportunity Areas; (iii) if

rental housing is proposed, demonstrates a compelling strategy for and track record of financing and/or supporting rental housing units targeted to Very Low-Income (VLI) Families (50% of AMI or below), with the maximum score available to Applications that propose to target at least 45% of units to Very Low-Income Families; (iv) if Homeownership is proposed, demonstrates a compelling strategy for financing and/or supporting up to 100% of CMF Award to Homeownership units either targeted to Low-Income Families (80% of AMI or below) or Homeownership units targeted to Eligible-Income Families (120% of AMI or below) located in AEDs, with the Applicant's track record supporting their ability to execute this strategy; (v) if proposing Economic Development Activities, demonstrates how its proposed Economic Development Activities fit within a Concerted Strategy and will benefit the residents of the nearby Affordable Housing; and (vi) makes a commitment to invest at least 10% of the CMF Award in Rural Areas and presents a corresponding track record of serving Rural Areas.

(c) *Organizational Capacity (25 points):* In the Organizational Capacity section, the Applicant will discuss: (i) Its management team and key staff; (ii) the roles and responsibilities of those staff in managing the proposed CMF Award; (iii) its past experience managing Federal awards; (iv) its financial health; and (v) lending or property portfolio (as applicable).

An Applicant will generally score more favorably in the criteria evaluated by the external reviewer and by the quantitative assessment factors to the extent that it demonstrates: (i) Strong qualifications of its key personnel with respect to their skills and experience in identifying investments, underwriting or developing similar projects (as applicable), and managing a portfolio of similar activities and ensuring compliance with program requirements; (ii) a strong ability to successfully manage Federal awards based on experience managing prior Federal Awards or administering state or local government awards, foundation grants, or other programs with complex compliance requirements; (iv) strong financial health, including but not limited to strong capitalization, sound operating performance, and strong liquidity; (iv) favorable audit results (*e.g.,* opinion other than unqualified/unmodified) with no negative findings, including lack of a ''going concern paragraph'', lack of repeat findings of reportable conditions, lack of material weaknesses in internal controls, lack of delinquencies on obligations to investors or lenders, and not having filed for bankruptcy or defaulted on financial obligations; and (iv) solid portfolio performance (property portfolio or loan/investment portfolio, as applicable). CMF Program encourages first-time Applicants. Prior CMF Recipients will not receive a scoring advantage solely for having received a prior CMF Award.

(d) *Scoring anomaly:* If, in the case of a particular Application, the reviewers' total External Review scores vary significantly from each other, the CDFI Fund may, in its sole discretion, obtain the evaluation and numeric scoring of an additional reviewer to determine whether the anomalous score should be replaced with the score of the additional reviewer.

2. *Internal Review:* At the conclusion of the External Review phase, the CMF Program Manager will determine the overall number of Applications that will be initially forwarded for Internal Review. Each group of Applications (financing entity approach and affordable housing developer/manager approach) will be ranked separately based on their External Review score. The CMF Program Manager may initially forward an amount up to the highest scoring 50% of Applications from the External Review to the Internal Review, as long as the forwarded Applications reflect, within no more than 5% variance, the proportion of financing entity approach Applications to affordable housing developer/manager approach Applications in the overall Application Pool. Such Applications will be forwarded for Internal Review in descending order of External Review score. The forwarded Applications will be drawn from the financing entity approach and affordable housing developer/manager approach groups in proportion to each group's representation in the overall Application pool. This approach will ensure that the percentage of Applicants with a financing entity approach and affordable housing developer approach forwarded to Internal Review reflects the proportion of these entity strategies within the overall Application pool, with no more than 5% variance.

These forwarded Applications will constitute the highly qualified pool. During the Internal Review, CDFI Fund staff will prioritize the Applications in the highly qualified pool for an Award based on a combination of the following criteria: (i) Final External Review score; (ii) alignment with CMF statutory and policy priorities; (iii) the overall quality of the Applicant's strategy; and (iv) the Applicant's organizational capacity and financial health. The CDFI Fund will not attempt to ensure any specific balance of Applicants with a financing entity approach and Applicants with an affordable housing developer approach in the final Award pool.

In assessing the Applicant's organizational capacity, CDFI Fund staff will consider the following factors, including, but not limited to the Applicant's overall organizational and financial capacity, including (a) its financial strength and ability, and its resources to weather changing conditions and risks; (b) its organizational strength as demonstrated by good management practices, risk management, and internal controls; (c) key personnel with relevant experience and capacity; and (d) relevant experience and capacity demonstrating ability to meet federal award management standards (including performance with prior CDFI Fund awards). The CDFI Fund will also review OMB-designated repositories of government-wide eligibility qualification and financial integrity information, as part of the assessment of organizational capacity. In the case of an Applicant that has received awards from other Federal programs, the CDFI Fund reserves the right to contact officials from the appropriate Federal agency or agencies to determine whether the Recipient is in compliance with current or prior award agreements as well as to review the results of any Federal Single Audit, and to take such information into consideration before making a CMF Award.

In assessing the Application's alignment with CMF statutory and policy priorities, CDFI Fund staff will consider the following factors, including, but not limited to: (a) The likelihood of the Applicant to reach a minimum overall leverage multiplier of 10 times the Award amount or more; (b) the amount of private capital it will leverage relative to the CMF Award; (c) if rental housing is proposed, the Applicant's approach, track record and ability to finance/support a significant portion (up to 45%) of its rental housing for Very Low-Income Families; (d) if rental housing is proposed, the Applicant's approach, track record and ability to finance/support a significant portion of rental housing located in Areas of Economic Distress (AED) and/or High Opportunity Areas (HOA) as a percentage of its CMF rental portfolio; (e) if Homeownership is proposed, the Applicant's approach, track record and ability to successfully finance/support up to 100% of its Homeownership units for Low-Income Families (80% AMI or

below) and/or in Areas of Economic Distress as a percentage of its CMF Homeownership portfolio; and f) the number of Affordable Housing units expected to be generated as a result of the Award.

In assessing the quality of the Applicant's strategy, the CDFI Fund staff will consider the following factors, including, but not limited to: (a) The effectiveness and cohesiveness of the Applicant's strategy; (b) how well the proposed financing activities will help close the financing gaps in their market, including more favorable rates and terms than are currently available in its Service Area; (c) the Applicant's ability to execute its strategy and support its projections; (d) how adaptable the Applicant's strategy is to changing market conditions; (e) the alignment between the proposed activities and strategy and the selected impacts and outcomes; and (f) for Applicant's proposing Economic Development Activities (EDA), the extent the activities are part of a Concerted Strategy, whether activities will benefit affordable housing residents, and the track record and capacity of the Applicant to carry out EDA.

In addition to the criteria outlined above, the Applicant's ability to deploy the CMF Award in a timely manner will be a key determinant in funding recommendation. Deployment considerations may include the Applicant's track record of activities compared with projections, the Applicant's progress in committing and/or deploying past CMF Awards, and whether the Applicant received a FY 2021 CDFI/NACA Program award for a similar business strategy as the proposed use of the CMF Award. The CDFI Fund may also consider the number of geographies served when determining funding recommendations.

3. *Selection:* Once Applications have been internally evaluated and preliminary award determinations have been made, the Applications will be forwarded to a selecting official for a final award determination. After preliminary award determinations are made, the selecting official will review the list of potential Recipients to determine whether the Recipient pool meets the following statutory objectives:

(a) The potential Recipients' proposed Service Areas collectively represent broad geographic coverage throughout the United States; and

(b) The potential Recipients' proposed activities equitably represent both Metropolitan Areas and Rural Areas. For the purposes of the FY 2021 CMF Round, the term Rural Areas is defined per 12 CFR 1282.1 (Enterprise Duty To Serve Final Rule) as (i) A census tract outside of a Metropolitan Statistical Area as designated by the Office of Management and Budget; or (ii) A census tract in a Metropolitan Statistical Area as designated by the Office of Management and Budget that is outside of the Metropolitan Statistical Area's Urbanized Areas, as designated by the U.S. Department of Agriculture's (USDA) Rural-Urban Commuting Area (RUCA) Code #1, and outside of tracts with a housing density of over 64 housing units per square mile for USDA's RUCA Code #2.

As Rural Areas data for the Enterprise Duty to Serve Rule is not available for American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands, all census tracts in these territories will be deemed as Rural census tracts for Awards issued under this NOFA. The CDFI Fund will publish a dataset indicating which census tracts are designated as Rural Areas for the FY 2021 Round on its website.

In the event the preliminary Recipient pool does not reflect the geographic coverage or representation of Metropolitan and Rural Areas present in the overall Applicant pool, the CDFI Fund reserves the right to modify CMF Award amounts and/or the CMF Recipient pool if deemed necessary to achieve either of these statutory objectives. For the purposes of conducting this analysis, the CDFI Fund will classify Applications as addressing Rural Areas if they propose to use 20% or more of their award in Rural Areas, and as addressing Metropolitan Areas if they propose to use less than 20% of their Award in Rural Areas.

In order to evaluate the geographic coverage of the potential CMF Recipient pool, Applicants will be asked to designate one of the following two Service Area types in their Applications: Statewide or Multi-State. These Service Area types are further defined in the Application. Applicants planning to serve communities below the state level (cities and municipalities, counties, regions) and within one state should designate their Service Area as Statewide.

Similarly, an Applicant that is planning to serve communities below the state level, but in more than one state, should designate their Service Area as Multi-State. The smallest Service Area an Applicant can request is one state or U.S. territory; the largest Service Area an Applicant can propose is a 15 state Multi-State Service Area. Applicants should indicate in the narrative portions of their Application if they plan to concentrate their CMF activities in a subset (*e.g.,* a county or a Metropolitan Area) of their broader Service Area. If necessary to achieve proportional activity in Rural Areas and/or broader geographic coverage, the CDFI Fund may award Applications not in the preliminary Recipient pool, including Applications outside of the highly qualified pool, in the order of their Internal Review scoring ranking. During the selection process, the CDFI Fund also reserves the right to modify or place restrictions on the Service Area requested in any Application in order to further these statutory objectives.

In cases where the selecting official's award determination varies significantly from the initial CMF Award amount recommended by the CDFI Fund staff review, the CMF Award recommendation will be forwarded to a reviewing official for final determination. The CDFI Fund, in its sole discretion, reserves the right to reject an Application and/or adjust CMF Award amounts as appropriate, based on information obtained during the review process.

4. *Insured Depository Institution Applicants:* In the case of Applicants that are Insured Depository Institutions or Insured Credit Unions, the CDFI Fund will consider safety and soundness information from the Appropriate Federal Banking Agency or Appropriate State Agency, as applicable. If the Applicant is a CDFI Depository Institution Holding Company, the CDFI Fund will consider information provided by the Appropriate Federal Banking Agency and Appropriate State Agency about both the CDFI Depository Institution Holding Company and the CDFI Insured Depository Institution that will expend and carry out the Award. If the Appropriate Federal Banking Agency or Appropriate State Agency identifies safety and soundness concerns, the CDFI Fund will assess whether the concerns warrant that the Applicant is incapable of undertaking the activities for which funding has been requested.

5. *Right of Rejection:* The CDFI Fund reserves the right to reject an Application if information (including administrative errors) comes to the attention of the CDFI Fund that adversely affects an Applicant's eligibility for an Award, adversely affects the CDFI Fund's evaluation or scoring of an Application, or indicates fraud or mismanagement on the Applicant's part, including mismanagement of another Federal award. If the CDFI Fund determines that any portion of the Application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the Application. The

CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If said changes materially affect the CDFI Fund's Award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund's website. There is no right to appeal the CDFI Fund's Award decisions. The CDFI Fund's Award decisions are final.

6. Anticipated Award Announcement: The CDFI Fund anticipates making CMF Award announcements in early 2022.

VI. Federal Award Administration Information

A. Award Notification: Each successful Applicant will receive notification from the CDFI Fund stating that its Application has been approved for an Award. Each Applicant not selected for an Award will receive notification and be provided a debriefing document in its AMIS account.

B. Administrative and Policy Requirements Prior to Entering into an Assistance Agreement: The CDFI Fund may, in its discretion and without advance notice to the Recipient, terminate the Award or take other actions as it deems appropriate if, prior to entering into an Assistance Agreement, information (including an administrative error) comes to the CDFI Fund's attention that adversely affects the following: The Recipient's eligibility for an Award; the CDFI Fund's evaluation of the Application; the Recipient's compliance with any requirement listed in the Uniform Requirements; or indications of fraud or mismanagement on the Recipient's part, including mismanagement of another Federal award.

If the Recipient's certification status as a CDFI changes prior to entering into an Assistance Agreement, the CDFI Fund reserves the right, in its sole discretion, to re-evaluate the CMF Award, or modify the Assistance Agreement based on the Recipient's non-CDFI status.

By receiving notification of a CMF Award, the Recipient agrees that, if the CDFI Fund becomes aware of any information (including an administrative error) prior to the Effective Date of the Assistance Agreement that either adversely affects the Recipient's eligibility for an CMF Award, adversely affects the CDFI Fund's evaluation of the Recipient's Application, or indicates fraud or mismanagement on the part of the Recipient, the CDFI Fund may, in its discretion and without advance notice to the Recipient, rescind the notice of award or take other actions as it deems appropriate.

The CDFI Fund reserves the right, in its sole discretion, to rescind an Award if the Recipient fails to return the Assistance Agreement, signed by an Authorized Representative of the Recipient, and/or provide the CDFI Fund with any other requested documentation, within the CDFI Fund's deadlines.

In addition, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Assistance Agreement and the award made under this NOFA for any criteria described in Table 7:

TABLE 7—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT

Requirement	Criteria
Failure to meet reporting requirements.	• If an Applicant received a prior award or allocation under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, award, allocation, bond loan agreement(s), or agreement to guarantee, as of the date of the notice of award, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement and/or to delay making a Payment of CMF Award, until said prior Recipient or allocatee is current on the reporting requirements in the previously executed assistance, award, allocation, bond loan agreement(s), or agreement to guarantee. • If such a prior Recipient or allocatee is unable to meet this requirement within the timeframe set by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the CMF Award made under this NOFA. • Please note that automated systems employed by the CDFI Fund for receipt of reports submitted electronically typically acknowledge only a report's receipt; such acknowledgment does not warrant that the report received was complete, nor that it met reporting requirements. If said prior Recipient or allocatee is unable to meet this requirement within the timeframe set by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of Award and the CMF Award made under this NOFA.
Failure to maintain CDFI Certification (if applicable) or eligible Nonprofit Organization status (if applicable).	• A Recipient must be a Certified CDFI or an eligible Nonprofit Organization, as each is defined in the CMF Interim Rule and this NOFA, prior to entering into an Assistance Agreement. • If, at any time prior to entering into an Assistance Agreement under this NOFA, an Applicant that is a Certified CDFI has submitted reports (or failed to submit an annual certification report as instructed by the CDFI Fund) to the CDFI Fund that demonstrate noncompliance with the requirements for certification, but the CDFI Fund has yet to make a final determination regarding whether or not the entity is Certified, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Assistance Agreement and/or to delay making a Payment of CMF Award, pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance. • If the Applicant is unable to meet this requirement, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the CMF Award made under this NOFA.
Pending resolution of noncompliance.	• The CDFI Fund will delay entering into an Assistance Agreement with a Recipient that has pending noncompliance issues with any of its previously executed CDFI Fund award(s), allocation(s), bond loan agreement(s), or agreement(s) to guarantee. • If said prior Recipient or allocatee is unable to satisfactorily resolve the compliance issues, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the notice of award and the CMF Award made under this NOFA.

TABLE 7—REQUIREMENTS PRIOR TO EXECUTING AN ASSISTANCE AGREEMENT—Continued

Requirement	Criteria
Default or Noncompliance status.	• If, at any time prior to entering into an Assistance Agreement, the CDFI Fund determines that an Applicant (or an Affiliate of the Applicant) that is a prior CDFI Fund Recipient or allocatee under any CDFI Fund program is noncompliant or found in default with any previously executed CDFI Fund award or Assistance agreement(s) and the CDFI Fund has provided written notification that the Applicant is ineligible to apply for or receive any future awards or allocations for a time period specified by the CDFI Fund in writing, the CDFI Fund may, in its sole discretion, delay entering into an Assistance Agreement with Applicant until the Recipient has cured the noncompliance by taking actions the CDFI Fund has specified in writing within such specified timeframe. If the Recipient is unable to cure the noncompliance within the specified timeframe, the CDFI Fund may modify or rescind all or a portion of the CMF Award made under this NOFA.
Compliance with Federal civil rights requirements.	• The CDFI Fund will terminate and rescind the Assistance Agreement and the CMF Award made under this NOFA if, prior to entering into an Assistance Agreement under this NOFA, the Recipient receives a final determination, made within the last 3 years of the publication date of this NOFA, in any proceeding instituted against the Recipient in, by, or before any court, governmental, or administrative body or agency, declaring that the CMF Award Recipient has violated the following laws: Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d); Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107); Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601 et seq.); Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and Title IX of the Education Amendments of 1972.
Debarment/Do Not Pay	• The CDFI Fund reserves the right, in its sole discretion, to rescind an award if the Recipient (or Affiliate of Recipient) is identified as being delinquent on any Federal debt in the Do Not Pay database. • The Do Not Pay Business Center was developed to support Federal agencies in their efforts to reduce the number of improper payments made through programs funded by the Federal government. The Do Not Pay Business Center provides delinquency information to the CDFI Fund to assist with the debarment check.
Safety and soundness	• If it is determined that the Recipient is or will be incapable of meeting its CMF Award obligations, the CDFI Fund will deem the Recipient to be ineligible or require it to improve safety and soundness conditions prior to entering into an Assistance Agreement.

C. Assistance Agreement: Each Applicant that is selected to receive an award under this NOFA must enter into an Assistance Agreement with the CDFI Fund in order to become a Recipient and receive Payment. Each CMF Award under this NOFA generally will have a period of performance that begins with the announcement date of the Award and continues until the end of the period of affordability, as set forth at 12 CFR 1807.401(d) and 12 CFR 1807.402, and as further set forth in the Assistance Agreement.

1. The Assistance Agreement will set forth certain required terms and conditions of the CMF Award, which will include, but not be limited to:

(a) The amount of the award;

(b) The approved uses of the award;

(c) The approved Service Area in which the award may be used. Applicants selected for a CMF Award will be allowed to use up to 15% of the award amount outside of their approved Service Area at their discretion. Moreover, they will be able to reinvest Program Income from the CMF Award anywhere in the United States, including the U.S. territories.

(d) Performance goals and measures;

(e) Reinvestment requirements for Program Income; and

(f) Reporting requirements for all Recipients.

2. Prior to executing the Assistance Agreement, the CDFI Fund may, in its discretion, allow Recipients to request changes to the Service Area of the Award and certain performance goals and measures. The CDFI Fund, in its sole determination, may approve or reject these requested changes or propose other modifications, including a reduction in the Award amount. The CDFI Fund will only approve performance goals and measures or Service Area changes if it determines that such requested changes do not undermine the competitive process upon which the CMF Award determination was made. The CDFI Fund may also, in its discretion, provide Recipients the opportunity to add states to their Service Area in order to serve states not already covered in the Award pool and to further HERA's goal that the CMF serve geographically diverse areas of every state. The CDFI Fund may also, in its discretion, provide Recipients the opportunity to add states to its approved Service Area in order to serve geographies for which: (i) The President issued a ''major disaster declaration,'' and (ii) the major disaster declaration makes such geographies eligible for both ''individual and public assistance.'' The major disaster declaration must be made after the publication date of this NOFA and prior to the execution of the Recipient's Assistance Agreement. In these cases, the CDFI Fund may allow a Recipient to exceed the maximum 15 state Service Area, if applicable. Any modifications agreed upon prior to the execution of the Assistance Agreement will become a condition of the Award.

3. The Assistance Agreement shall provide that, prior to any determination by the CDFI Fund that a Recipient has failed to comply substantially with the Act, the CMF Interim Rule, or the environmental quality regulations, the CDFI Fund shall provide the Recipient with reasonable notice and opportunity to be heard. If the Recipient fails to comply substantially with the Assistance Agreement, the CDFI Fund may:

(a) Require changes in the performance goals set forth in the Assistance Agreement;

(b) Reduce or terminate the CMF Award; or

(c) Require repayment of any CMF Award that has been distributed to the Recipient.

4. The Assistance Agreement shall also provide that, if the CDFI Fund determines noncompliance with the terms and conditions of the Assistance Agreement on the part of the Recipient, the CDFI Fund may:

(a) Bar the Recipient from reapplying for any assistance from the CDFI Fund; or

(b) Take such other actions as the CDFI Fund deems appropriate or as set forth in the Assistance Agreement.

5. In addition to entering into an Assistance Agreement, each Applicant selected to receive a CMF Award must furnish to the CDFI Fund a certificate of good standing from the jurisdiction in which it was formed. The CDFI Fund may, in its sole discretion or in lieu of

a certificate of good standing, also require the Applicant to furnish an opinion from its legal counsel, the content of which may be further specified in the Assistance Agreement, and which, among other matters, opines that:

(a) The Recipient is duly formed and in good standing in the jurisdiction in which it was formed and the jurisdiction(s) in which it transacts business;

(b) The Recipient has the authority to enter into the Assistance Agreement and undertake the activities that are specified therein;

(c) The Recipient has no pending or threatened litigation that would materially affect its ability to enter into and carry out the activities specified in the Assistance Agreement;

(d) The Recipient is not in default of its articles of incorporation or formation, bylaws or operating agreements, other organizational or establishing documents, or any agreements with the Federal government;

(e) The CMF affordability restrictions that are to be imposed by deed restrictions, covenants running with the land, or other CDFI Fund approved mechanisms that are recordable and enforceable under the laws of the State and locality where the Recipient will undertake its CMF activities;

(f) If applicable, the Recipient is exempt from Federal Income taxation pursuant to the Internal Revenue Code of 1986; and

(g) If applicable, the Recipient is designated as a nonprofit or not for profit entity under the laws of the organization's State of formation.

6. *Closing and Payment of the Award:* Pursuant to the Assistance Agreement, there will be an initial closing at which point the Assistance Agreement and related documents will be properly executed and delivered, and a Payment of the CMF Award is made. Recipients of CMF FY 2021 Awards will have the option to choose Payment of the Award in a single, lump sum payment or in two payment tranches, each no more than one year apart, and as set forth in the Assistance Agreement. If the Applicant is electing to receive Payment in two tranches, the first Payment amount will be based on the Applicant's estimated amount of the Award that will be Committed in the first year, though the first Payment amount can be modified at the Recipients request prior to closing the Assistance Agreement. The date of Payment will affect the required date of Commitment of the Award, two years subsequent to each Payment, but will not affect or change any other performance goal or requirement set forth in the Assistance Agreement, including the requirement that all Projects must achieve Project Completion within five years of the effective date of the Assistance Agreement.

Following the initial closing of the Assistance Agreement, there may be subsequent closings involving additional award Payments. Any documentation in addition to the Assistance Agreement that is connected with such subsequent closings and Payments shall be properly executed and timely delivered by the Recipient to the CDFI Fund.

D. Paperwork Reduction Act: Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. If applicable, the CDFI Fund may inform Applicants that they do not need to provide certain Application information otherwise required. Pursuant to the Paperwork Reduction Act, the Capital Magnet Fund Application has been assigned the following control number: 1559–0036.

E. Reporting: The CDFI Fund will require each Recipient that receives a CMF Award through this NOFA to account for and report to the CDFI Fund on the use of the CMF Award. This will require Recipients to establish administrative controls, subject to the Uniform Administrative Requirements and other applicable OMB guidance. The CDFI Fund will collect information from each such Recipient on its use of the CMF Award annually, following Payment and more often if deemed appropriate by the CDFI Fund in its sole discretion. The CDFI Fund will provide guidance to Recipients outlining the format and content of the information required to be provided to describe how the funds were used.

The CDFI Fund may collect information from each Recipient including, but not limited to, an annual report with the components listed in Table 8:

TABLE 8—REPORTING REQUIREMENTS [5]

Criteria	Description
Single Audit (if applicable) ...	A non-profit Recipient must complete an annual Single Audit pursuant to the Uniform Requirements (2 CFR 200.501) if it expends $750,000 or more in Federal awards in its fiscal year, or such other dollar threshold established by OMB pursuant to 2 CFR 200.501. If a Single Audit is required, it must be submitted electronically to the Federal Audit Clearinghouse (FAC) (see 2 CFR Subpart F-Audit Requirements in the Uniform Requirements) and optionally through AMIS.
Financial Statement Audit	For-profit and nonprofit Recipients must submit a Financial Statement Audit (FSA) report in AMIS, along with the Recipient's statement of financial condition audited or reviewed by an independent certified public accountant.
Performance Report	The Recipient must submit a performance report not less than annually, which is a progress report on the Recipient's use of the CMF Award towards meeting its performance goals, Affordable Housing outcomes, and the Recipient's overall performance. The CMF Performance Report covers the Announcement Date through the Investment Period for the CMF Award and the ten-year Affordability Period for each Project. The Investment Period shall mean the period beginning with the Effective Date of the Assistance Agreement and ending not earlier than the fifth year anniversary of the Effective Date, or as otherwise established in the Assistance Agreement. The Affordability Period shall mean, for each Project, the period beginning on the date when the Project is placed into service and consisting of the full ten consecutive years thereafter, or as otherwise established in the Assistance Agreement. If the Recipient fails to meet a performance goal or reporting requirements, it must submit an explanation of noncompliance via AMIS.

TABLE 8—REPORTING REQUIREMENTS [5]—Continued

Criteria	Description
Environmental Review	The Recipient shall submit the Environmental Review Notification Report each time the Recipient identifies a new proposed CMF project for which (i) a categorical exclusion does not apply and/or (ii) the Recipient determines that the proposed project does involve actions that normally require an Environmental Impact Statement, as described in 12 CFR Part 1815. The Environmental Review Notification Report must be submitted to the CDFI Fund no later than one hundred eighty (180) days prior to the date that the funds are Committed to a Project.

[5] Personally Identifiable Information (PII) is information, which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Although Applicants are required to enter addresses of homes and other properties in AMIS, Applicants should not include the following PII for the individuals who received the financial products or services in AMIS or in the supporting documentation (*i.e.,* name of the individual, Social Security Number, driver's license or state identification number, passport number, Alien Registration Number, etc.). This information should be redacted from all supporting documentation (if applicable).

Each Recipient is responsible for the timely and complete submission of the annual reporting documents. The CDFI Fund will use such information to monitor each Recipient's compliance with the requirements set forth in the Assistance Agreement and to assess the impact of the CMF. The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary; however, such reporting requirements will be modified only after notice to Recipients.

F. Financial Management and Accounting: The CDFI Fund will require Recipients to maintain financial management and accounting systems that comply with Federal statutes, regulations, and the terms and conditions of the CMF Award. These systems must be sufficient to permit the preparation of reports required by general and program specific terms and conditions, including the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with the Federal statutes, regulations, and the terms and conditions of the CMF Award.

The cost principles used by Recipients must be consistent with Federal cost principles, must support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the CMF Award. In addition, the CDFI Fund will require Recipients to: Maintain effective internal controls; comply with applicable statutes and regulations, the Assistance Agreement, and related guidance; evaluate and monitor compliance; take action when not in compliance; and safeguard personally identifiable information.

VII. Agency Contacts

A. Availability: The CDFI Fund will respond to questions and provide support concerning this NOFA and the Application between the hours of 9:00 a.m. and 5:00 p.m. ET, starting on the date of the publication of this NOFA until the close of business on the third business day preceding the Application deadline. The CDFI Fund will not respond to questions or provide support concerning the Application that are received after 5:00 p.m. ET on said date, until after the Application deadline. CDFI Fund IT support will be available until 5:00 p.m. ET on date of the Application deadline. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at *http://www.cdfifund.gov/cmf.* The CDFI Fund will post on its website responses to questions of general applicability regarding the CMF.

B. The CDFI Fund's Contact Information is Listed in Table 9

TABLE 9—CONTACT INFORMATION

Type of question	Preferred method	Telephone number (not toll free)	Email addresses
CMF	Submit a Service Request in AMIS	202–653–0421	*cmf@cdfi.treas.gov.*
CDFI Certification	Submit a Service Request in AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
Compliance Monitoring and Evaluation ...	Submit a Service Request in AMIS	202–653–0423	*ccme@cdfi.treas.gov.*
Information Technology Support	Submit a Service Request in AMIS	202–653–0422	*AMIS@cdfi.treas.gov.*

The preferred method of contact is to submit a Service Request within AMIS. For a CMF Application question, select ''Capital Magnet Fund'' for the program. For a CDFI Certification question, select ''Certification.'' For a Compliance question, select ''Compliance & Reporting.'' For Information Technology, select ''Technical Issues.'' Failure to select the appropriate program for the Service Request could result in delays in responding to your question.

C. Communication with the CDFI Fund: The CDFI Fund will use AMIS to communicate with Applicants and Recipients, using the contact information maintained in their respective AMIS accounts. Therefore, the Recipient and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact persons and Authorized Representatives, email addresses, fax numbers, phone numbers, and office addresses) in its AMIS account(s). For more information about AMIS please see the Help documents posted at *https://amis.cdfifund.gov/s/Training.*

D. Civil Rights and Diversity: Any person who is eligible to receive benefits or services from the CDFI Fund or Recipients under any of its programs is entitled to those benefits or services without being subject to prohibited discrimination. The Department of the Treasury's Office of Civil Rights and Diversity enforces various Federal statutes and regulations that prohibit discrimination in financially assisted and conducted programs and activities of the CDFI Fund. If a person believes that s/he has been subjected to discrimination and/or reprisal because of membership in a protected group, s/he may file a complaint with: Associate Chief Human Capital Officer, Office of Civil Rights, and Diversity, 1500

Pennsylvania Ave. NW, Washington, DC 20220 or (202) 622–1160 (not a toll-free number).

E. Statutory and National Policy Requirements: The CDFI Fund will manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with the U.S. Constitution, Federal Law, statutory, and public policy requirements: Including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

VIII. Other Information

None.

Authority: Public Law 110–289. 12 U.S.C. 4701, 12 CFR part 1805, 12 CFR part 1807, 12 CFR part 1815, 12 U.S.C. 4502.

Jodie L. Harris,

Director, Community Development Financial Institutions Fund.

[FR Doc. 2021–19598 Filed 9–9–21; 8:45 am]

BILLING CODE 4810–70–P

FEDERAL RESERVE SYSTEM

[Docket No. OP–1752]

FEDERAL DEPOSIT INSURANCE CORPORATION

RIN 3064–ZA26

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2021–0011]

Proposed Interagency Guidance on Third-Party Relationships: Risk Management

AGENCY: The Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC).

ACTION: Proposed interagency guidance and request for comment; extension of comment period.

SUMMARY: On July 19, 2021, the Board, FDIC, and OCC (together, the agencies) published in the **Federal Register** an invitation to comment on proposed guidance on managing risks associated with third-party relationships. The notice provided for a comment period ending on September 17, 2021. In response to commenters' requests for additional time to analyze and respond to the proposal, the agencies are extending the comment period for 30 days until October 18, 2021.

DATES: For the notice of proposed guidance published on July 19, 2021 (86 FR 38182), comments must be received by October 18, 2021.

ADDRESSES: You may submit comments by any of the methods identified in the proposal.

FOR FURTHER INFORMATION CONTACT:

Board: Nida Davis, Associate Director, (202) 872–4981; Timothy Geishecker, Lead Financial Institution and Policy Analyst, (202) 475–6353, Division of Supervision and Regulation; Jeremy Hochberg, Managing Counsel, (202) 452–6496; Matthew Dukes, Counsel, (202) 973–5096, Division of Consumer and Community Affairs; Claudia Von Pervieux, Senior Counsel, (202) 452–2552; Evans Muzere, Counsel, (202) 452–2621; Alyssa O'Connor, Senior Attorney, (202) 452–3886, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

FDIC: Thomas F. Lyons, Corporate Expert in Examination Policy, *TLyons@fdic.gov,* (202) 898–6850); Judy E. Gross, Senior Policy Analyst, *JuGross@fdic.gov,* (202) 898–7047, Policy & Program Development, Division of Risk Management Supervision; Paul Robin, Chief, *probin@fdic.gov,* (202) 898–6818, Supervisory Policy Section, Division of Depositor and Consumer Protection; Marguerite Sagatelian, Senior Special Counsel, *msagatelian@fdic.gov,* (202) 898–6690, Supervision, Legislation & Enforcement Branch, Legal Division, Federal Deposit Insurance Corporation; 550 17th Street NW, Washington, DC 20429.

OCC: Kevin Greenfield, Deputy Comptroller for Operational Risk Division, Lazaro Barreiro, Director for Governance and Operational Risk Policy, Emily Doran, Governance and Operational Risk Policy Analyst, Stuart Hoffman, Governance and Operational Risk Policy Analyst, Operational Risk Policy Division, (202) 649–6550; or Tad Thompson, Counsel or Eden Gray, Assistant Director, Chief Counsel's Office, (202) 649–5490, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: On July 19, 2021, the agencies published in the **Federal Register** an invitation to comment on proposed guidance on managing risks associated with third-party relationships.[1] The proposed guidance would offer a framework based on sound risk management principles for banking organizations to consider in developing risk management practices for third-party relationships that takes into account the level of risk, complexity, and size of the banking organization and the nature of the third-party relationship. The proposed guidance would replace each agency's existing guidance on this topic and would be directed to all banking organizations supervised by the agencies. The notice solicited respondents' views on all aspects of the proposed guidance, including to what extent the guidance provides sufficient utility, relevance, comprehensiveness, and clarity for banking organizations with different risk profiles and organizational structures.

The proposed guidance provided for a comment period ending on September 17, 2021. Since the publication of the proposal, the agencies have received comments requesting a 30-day extension of the comment period. An extension of the comment period will provide additional opportunity for interested parties to analyze the proposed guidance and prepare and submit comments. Therefore, the agencies are extending the end of the comment period for the proposal from September 17, 2021 to October 18, 2021.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority.

Ann E. Misback,

Secretary to the Board.

Michael J. Hsu,

Acting Comptroller of the Currency. Deposit Insurance Corporation.

Dated at Washington, DC, on September 3, 2021.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2021–19545 Filed 9–9–21; 8:45 am]

BILLING CODE P

[1] 86 FR 38182 (July 19, 2021).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving

customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, October 14, 2021.

FOR FURTHER INFORMATION CONTACT: Fred Smith at 1–888–912–1227 or (202) 317–3087.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel's Tax Forms and Publications Project Committee will be held Thursday, October 14, 2021 at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Fred Smith. For more information please contact Fred Smith at 1–888–912–1227 or (202) 317–3087, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.*

Dated: September 3, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–19503 Filed 9–9–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will still be held via teleconference.

DATES: The meeting will be held Tuesday, October 12, 2021.

FOR FURTHER INFORMATION CONTACT: Conchata Holloway at 1–888–912–1227 or 214–413–6550.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Tuesday, October 12, 2021, at 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Conchata Holloway. For more information please contact Conchata Holloway at 1–888–912–1227 or 214–413–6550, or write TAP Office, 1114 Commerce Street, Mail Code 1005DAL, Dallas, Texas 75242 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: September 3, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–19505 Filed 9–9–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, October 14, 2021.

FOR FURTHER INFORMATION CONTACT: Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Taxpayer Assistance Center Improvements Project Committee will be held Thursday, October 14, 2021, at 12:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Matthew O'Sullivan. For more information please contact Matthew O'Sullivan at 1–888–912–1227 or (510) 907–5274, or write TAP Office, 1301 Clay Street, Oakland, CA 94612–5217 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: September 3, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–19506 Filed 9–9–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Special Projects Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, October 14, 2021.

FOR FURTHER INFORMATION CONTACT: Antoinette Ross at 1–888–912–1227 or 202–317–4110.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Special Projects Committee will be held Thursday, October 14, 2021, at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Antoinette Ross. For more information please contact Antoinette Ross at 1–888–912–1227 or 202–317–4110, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: September 3, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–19500 Filed 9–9–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Joint Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Joint Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, October 28, 2021.

FOR FURTHER INFORMATION CONTACT: Gilbert Martinez at 1–888–912–1227 or (737) 800–4060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Joint Committee will be held Thursday, October 28, 2021, at 1:30 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. For more information please contact Gilbert Martinez at 1–888–912–1227 or (737–800–4060), or write TAP Office 3651 S IH–35, STOP 1005 AUSC, Austin, TX 78741, or post comments to the website: *http://www.improveirs.org.*

The agenda will include various committee issues for submission to the IRS and other TAP related topics. Public input is welcomed.

Dated: September 3, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–19504 Filed 9–9–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. This meeting will still be held via teleconference.

DATES: The meeting will be held Wednesday, October 13, 2021.

FOR FURTHER INFORMATION CONTACT: Robert Rosalia at 1–888–912–1227 or (718) 834–2203.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel's Notices and Correspondence Project Committee will be held Wednesday, October 13, 2021, at 1:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Robert Rosalia. For more information please contact Robert Rosalia at 1–888–912–1227 or (718) 834–2203, or write TAP Office, 2 Metrotech Center, 100 Myrtle Avenue, Brooklyn, NY 11201 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: September 3, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–19501 Filed 9–9–21; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel's Toll-Free Phone Lines Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, October 12, 2021.

FOR FURTHER INFORMATION CONTACT: Rosalind Matherne at 1–888–912–1227 or 202–317–4115.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Lines Project Committee will be held Tuesday, October 12, 2021 at 11:00 a.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited time and structure of meeting, notification of intent to participate must be made with Rosalind Matherne. For more information please contact Rosalind Matherne at 1–888–912–1227 or 202–317–4115, or write TAP Office, 1111 Constitution Ave. NW, Room 1509, Washington, DC 20224 or contact us at the website: *http://www.improveirs.org.* The agenda will include various IRS issues.

Dated: September 3, 2021.

Kevin Brown,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2021–19502 Filed 9–9–21; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Department of Homeland Security

U.S. Customs and Border Protection

19 CFR Part 111

Continuing Education for Licensed Customs Brokers; Proposed Rule

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Part 111

[Docket No. USCBP–2021–0030]

RIN 1651–AB03

Continuing Education for Licensed Customs Brokers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the U.S. Customs and Border Protection (CBP) regulations to require continuing education for individual customs broker license holders (individual brokers) and to create a framework for administering this requirement. By requiring individual brokers to remain knowledgeable about recent developments in customs and related laws as well as international trade and supply chains, CBP's proposed framework would enhance professionalism and competency within the customs broker community. CBP has determined that the proposed framework would contribute to increased trade compliance and better protection of the revenue of the United States.

DATES: Comments must be received on or before November 9, 2021.

ADDRESSES: You may submit comments, identified by docket number, by one of the following methods:

- Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the instructions for submitting comments via Docket No. USCBP 2021–0030.
- *Mail:* Due to COVID–19-related restrictions, CBP has temporarily suspended its ability to receive public comments by mail.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov.* Due to the relevant COVID–19-related restrictions, CBP has temporarily suspended its on-site public inspections of the public comments.

FOR FURTHER INFORMATION CONTACT: Elena D. Ryan, Special Advisor, Programs and Policy Analysis, Regulations and Rulings, Office of Trade, U.S. Customs and Border Protection, at (202) 325–0001 or *Broker.Continuing.Education@cbp.dhs.gov*; and, Melba Hubbard, Chief, Broker Management Branch, Trade Policy and Programs, Office of Trade, U.S. Customs and Border Protection, at (202) 325–6986, *melba.hubbard@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the proposed rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this proposed rulemaking. Comments that will provide the most assistance to CBP will reference a specific portion of the proposed rulemaking, explain the reason for any recommended change, and include data, information, or authority that support such recommended change. See **ADDRESSES** above for information on how to submit comments.

II. Executive Summary

This notice of proposed rulemaking (NPRM) proposes to amend the U.S. Customs and Border Protection (CBP) regulations to require individual customs broker license holders (individual brokers) to participate in continuing education activities (hereinafter, referred to as the ''continuing broker education requirement'') and to create a framework for administering this requirement. This section provides a brief summary of the proposed framework. A more detailed description of the proposed framework is contained in section IV of this NPRM.

This NPRM proposes to require individual brokers to complete at least 36 continuing education credits per triennial period, with limited exceptions. Individual brokers reentering the profession following a period of voluntary suspension would be subject to a prorated requirement of one continuing education credit for each complete remaining month until the end of the triennial period. The proposed framework also exempts two groups of individual brokers from the continuing broker education requirement—namely, individual brokers who have voluntarily suspended their license in accordance with § 111.52 of title 19 of the Code of Federal Regulations (19 CFR 111.52), and individual brokers who have not held their license for an entire triennial period at the time of the submission of the status report as required under 19 CFR 111.30(d).

Under the proposed framework, individual brokers could earn continuing education credits for a variety of training or educational activities, whether in-person or online, including the completion of coursework, seminars, workshops, symposia, or conventions, and, subject to certain limitations and requirements, the preparation and presentation of subject matter as an instructor, discussion leader, or speaker. Individual brokers would report and certify their compliance with the continuing broker education requirement upon the submission of the status report required under 19 CFR 111.30(d), which is due on a triennial basis.

In order to ensure compliance with the continuing broker education requirement, this NPRM also proposes regulatory provisions authorizing CBP to take disciplinary actions, if an individual broker submits a triennial report but fails to report and certify his or her compliance with the continuing broker education requirement on the triennial report. The proposed framework also includes provisions addressing other aspects of the administration of the continuing broker education requirement, such as accreditation and the selection of accreditors.

III. Background

A. Authority for Continuing Broker Education Requirement

Section 641 of the Tariff Act of 1930, as amended (19 U.S.C. 1641), provides that individuals and business entities must hold a valid customs broker's license and permit to transact customs business on behalf of others. The statute also sets forth standards for the issuance of broker licenses and permits, provides for disciplinary action against customs brokers in the form of suspension or revocation of such licenses and permits or assessment of monetary penalties, and provides for the assessment of monetary penalties against other persons for conducting customs business without the required broker's license.

Section 641 authorizes the Secretary of the U.S. Department of the Treasury (Treasury) to prescribe rules and regulations relating to the customs

business of brokers as may be necessary to protect importers and the revenue of the United States and to carry out the other provisions of section 641. *See* 19 U.S.C. 1641(f). That authority was transferred to the Secretary of the U.S. Department of Homeland Security (DHS) as a result of the enactment of the Homeland Security Act of 2002 (Pub. L. 107–296, 116 Stat. 2142). The Homeland Security Act of 2002 generally transferred the functions of the former U.S. Customs Service from the Secretary of the Treasury to the Secretary of DHS, and provided that the Secretary of the Treasury retains authority over customs revenue functions, unless specifically delegated to the Secretary of DHS. *See* 6 U.S.C. 212(a)(1). Paragraph 1(a)(i) of Treasury Department Order No. 100–16 contains a list of subject matters over which the Secretary of the Treasury retained authority. *See* appendix to 19 CFR part 0. The other functions of the former U.S. Customs Service not expressly listed in paragraph 1(a)(i) of Treasury Department Order No. 100–16 were transferred from the Secretary of the Treasury to the Secretary of DHS. As paragraph 1(a)(i) of Treasury Department Order No. 100–16 does not list the regulation of customs brokers, the Secretary of the Treasury did not retain authority over this subject matter. Accordingly, the Secretary of DHS is authorized to prescribe rules and regulations relating to the customs business of brokers as may be necessary to protect importers and the revenue of the United States and to carry out the other provisions of section 641. *See* 19 U.S.C. 1641(f).

19 U.S.C. 1641(b)(4) imposes upon customs brokers the duty to exercise responsible supervision and control over the broker's employees and control over the customs business that is conducted. The statute also permits the Secretary of DHS to test persons for their knowledge of customs and related laws prior to issuing a license. Furthermore, based upon 19 U.S.C. 1641, CBP has promulgated regulations setting forth additional obligations of customs brokers pertinent to the conduct of their customs business. CBP believes that maintaining current knowledge of customs laws and procedures is essential for customs brokers to meet their legal duties. CBP proposes that requiring a customs broker to fulfill a continuing education requirement is the most effective means to ensure that the customs broker keeps up with an ever-changing customs practice after passing the broker exam and subsequent receipt of the license. CBP believes that 19 U.S.C. 1641 provides authority to require, by regulation, continuing education for individual brokers.

To enhance professionalism and competency within the customs broker community, CBP proposes to promulgate regulations to require continuing education for individual brokers and to create a framework for administering this requirement. CBP believes that requiring individual brokers to participate in continuing education activities would enhance the credibility and value of a customs broker's license and improve a broker's skills, performance, and productivity. This in turn would increase client service and compliance with customs laws, which would better protect the revenue of the United States.

B. Overview of Licensing Requirements for Individual Customs Brokers

CBP is responsible for administering the licensing requirements for customs brokers. *See* 19 CFR part 111, subpart B. A prospective customs broker must pass a broker exam administered by CBP, which is designed to determine the individual's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters necessary to render valuable service to the broker's clientele.

After an applicant passes the customs broker exam, CBP will investigate whether the applicant is qualified for a broker's license, taking into account information provided by the applicant and other aspects pertaining to the applicant, such as his or her business integrity. If CBP finds that the applicant is qualified and has paid all applicable fees, then CBP will issue a broker's license. Following the issuance of a license, a customs broker administratively maintains a license primarily through the payment of fees required in 19 CFR 111.96, and the filing of reports and notifications to CBP as set forth in 19 CFR 111.30. Pursuant to 19 U.S.C. 1641(b)(4), a customs broker has the statutory duty to exercise responsible supervision and control over the customs business that he or she conducts. *See also* 19 CFR 111.1 and 111.28(a). A customs broker also has other legal obligations, to CBP and to the broker's clientele, including, but not limited to, the exercising of due diligence in making financial settlements, answering correspondence, and preparing paperwork or filings related to customs business. *See* 19 CFR 111.29(a).

While the broker exam provides a good initial indication of an individual's knowledge of customs and related laws, regulations and procedures, bookkeeping, accounting, and all other appropriate matters (hereinafter, referred to as ''customs matters''), the broker exam is, by necessity, limited in scope. The broker exam only assesses a person's knowledge of the state of the customs and related laws at a certain point in time. The broker exam does not test for knowledge of any of the requirements of the more than 40 Partner Government Agencies (PGAs) [1] involved in regulating imports. The complex nature of trade and the ever-changing and expanding requirements to comply with U.S. and international law requires that a customs broker maintain a high level of functional and accessible knowledge to ensure that a broker's clients remain compliant with the applicable laws over time. CBP proposes that requiring a customs broker to fulfill a continuing education requirement is the most effective way to ensure that individual customs brokers keep abreast of changes in customs and related laws, which is especially important because of the constant evolution of international trade and supply chains. CBP is proposing that, once individuals become licensed customs brokers, they must maintain sufficient knowledge of customs and related laws necessary to render valuable service to importers and drawback claimants through the completion of continuing education. CBP believes this will result in more competent licensed customs brokers who are well educated in customs law, regulations, and critical subject matter. A more competent customs broker community will prevent costly errors for their clients, potentially saving importers and drawback claimants from unwanted problems and relieving CBP from expending valuable examination and collection resources. The proposed regulations will create a framework for continuing broker education that would contribute to increased trade compliance and better protection of the revenue of the United States.

C. Assessment of Compliance Risks Managed by Customs Brokers in the Complex and Evolving Realm of International Trade

Recent developments have demonstrated the need for key parties involved in importing and claiming drawback to keep up-to-date on training and continuously build and maintain their knowledge of current

[1] CBP enforces over 400 laws on behalf of over 40 other U.S. Government agencies, which are commonly referred to as Partner Government Agencies (PGAs).

requirements. For example, the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) (Pub. L. 114–125, 130 Stat. 122, February 24, 2016) required the issuance of new rules to protect domestic industry from dumping by foreign competitors (19 CFR part 165) and to modernize the processes surrounding duty refunds through the drawback program (19 CFR part 190). Both of these rules are complicated and detailed, requiring entities involved in international trade—particularly, customs brokers serving as the fiduciary agents of the affected importers and drawback claimants—to learn entirely new legal and technical processes. In addition to understanding the implementation of new regulations, a customs broker also needs to know how to research answers to complex questions. For example, determining the country of origin of imported merchandise is much less straightforward than it was in the past, as traders source inputs from various countries and may assemble those inputs in yet another country before a final product is fully manufactured or produced.

The past several years, in particular, have posed challenges for both CBP and entities involved in international trade, requiring quick adaption to new requirements that compelled changes to operational processes. Low-value shipments (19 U.S.C. 1321(a)(2)(C)), the volume of which has exploded with the increase in the *de minimis* limit from $200 to $800 as a result of section 901(c) of TFTEA and the online shopping revolution, have created multiple levels of issues for international trade that implicate security, health, safety, information collection, timely clearance, and duty evasion. The 2020 statutory implementation of the Agreement between the United States of America, the United Mexican States and Canada (the USMCA), which replaced the North American Free Trade Agreement (NAFTA), requires a new body of knowledge to successfully implement and maintain compliance. *See* United States-Mexico-Canada Agreement Implementation Act, Public Law 116–113, 134 Stat. 11 (19 U.S.C. Chapter 29). The ongoing COVID–19 pandemic created an unprecedented impact on supply chains and international trade processes.

The customs broker is at the heart of the aforementioned challenges, as the agent of the importer/drawback claimant who works with CBP to resolve problems and facilitate the safe and secure movement of legitimate cargo. CBP believes that the complex and evolving nature of international trade requires a mandatory continuing education framework for individual brokers involved in these trade processes. Simply relying on self-initiated efforts to maintain current knowledge is insufficient to ensure compliance with the wide array of applicable and evolving laws that is necessary to protect the revenue of the United States. Brokers who were assessed penalties by CBP between 2017 and 2020 have held their individual broker license for, on average, 37 years. In contrast, the average individual customs broker license has been held for just 24 years. This suggests that as more time passes since the passing of the customs broker exam, more errors are made. Additionally, as addressed in greater detail in section V.A. of this NPRM, which pertains to the requirements of Executive Orders 13563 and 12866, CBP has seen a recent increase in penalties while data indicates that companies employing individual brokers who voluntarily pursue continuing education in the form of industry certifications generally commit fewer errors.

Regular continuing education is a professional requirement for many dynamic professions, such as in the accounting, legal, and medical industries. The Internal Revenue Service (IRS), for example, has regulations covering tax professionals that include both an examination and a continuing education requirement. *See* 31 CFR part 10. These regulations were based, in part, on the Return Preparer Review report (January 4, 2010), which recommended continuing education for tax preparers to ''better leverage the tax return preparer community with the twin goals of increasing taxpayer compliance and ensuring uniform and high ethical standards of conduct for tax preparers.'' [2] The IRS serves as the primary revenue collector of the U.S. Government and has a responsibility for protecting the revenue of the United States. Similarly, CBP is the second largest collector of revenue in the federal government, in the form of duties, taxes, and fees for imported merchandise, and likewise has a responsibility for protecting the revenue of the United States.

As CBP licenses customs brokers to conduct customs business, it is in the best interests of CBP and the PGAs to have a well-educated customs broker community. A customs broker's involvement in import and/or drawback transactions eases the burden of the government; the customs broker takes on a large part of the role of educating importers and drawback claimants on the technical requirements of filing in the Automated Broker Interface (ABI) [3] and informing them of regulatory requirements for the customs transactions in which they are involved. While there are some self-filers, the vast majority of entries of imported merchandise are filed by customs brokers on behalf of the importers of record. This dynamic generally allows CBP to target a smaller group of individuals when managing trade compliance for revised or new filing requirements. Thus, a customs broker community that continues to stay abreast of changes in the customs practice helps support CBP's crucial work. As the quality of such brokerage services suffers, this would cause CBP to expend additional resources to assist entities involved in international trade with navigating complex import and drawback requirements, which diverts limited resources away from other critical aspects of CBP's trade mission. To ameliorate that consequence, CBP proposes to require customs brokers to maintain their knowledge and skills through the completion of continuing customs broker education.

Importers and drawback claimants also benefit from well-educated customs brokers who are aware of current requirements in the complex and evolving realm of international trade. When an importer or drawback claimant enlists the services of a customs broker, that customs broker is perceived to be knowledgeable of customs laws, regulations, and operational processes; however, an importer or drawback claimant does not know with certainty that the customs broker is in fact knowledgeable of all newly emerging requirements. The continuing broker education requirement would provide importers and drawback claimants with greater assurance that their agents are knowledgeable of customs laws and regulations, familiar with operational processes, and can properly exercise a broker's fiduciary duties.

In recent years, the need for continuing broker education has also attracted the attention of international intergovernmental organizations, such as the World Customs Organization

[2] Internal Revenue Service, U.S. Department of the Treasury, *Return Preparer Review,* IRS Publication No. 4832 (January 4, 2010), *available at https://www.irs.gov/pub/irs-news/fs-10-01.pdf.*

[3] The Automated Broker Interface (ABI) is an electronic data interchange that allows brokers and entry filers (self-filers) to transmit immediate delivery, entry, and entry summary data electronically to, and receive electronic messaging from, CBP in the Automated Commercial Environment (ACE). *See* 19 CFR 143.1 and 143.32(a).

(WCO). In 2018, the WCO published the *WCO Customs Brokers Guidelines,* which is a guidance document wherein the WCO recognizes the need for mandatory continuing education for customs brokers.[4] In the guidance document, the WCO notes that the passing of an initial broker exam does not ensure that customs brokers stay abreast of changes in customs and related laws and recommends that, on their own or in partnership with other governmental, private, or non-profit organizations, customs administrations should take on an active role in educating the customs broker community about changes in customs and related laws and reinforcing existing knowledge.[5] Additionally, in the guidance document, the WCO notes that some countries already require customs brokers to complete continuing education.[6] Accordingly, in proposing to require individual brokers to complete continuing education, this NPRM is generally in line with the WCO's recommendations on best practices for customs administrations.

D. Development of the Proposed Continuing Broker Education Requirement

In recent years, the importance of continuing broker education has received attention on a domestic level. In 2013, the predecessor to the Commercial Customs Operations Advisory Committee (COAC)[7] recommended that DHS issue regulations requiring customs brokers to complete a minimum of 40 hours of continuing education during a triennial reporting cycle, pursuant to CBP's authority under 19 U.S.C. 1641(f), on the condition that there be no accreditation requirements for such continuing education.[8]

In September 2019, CBP formed the Requirements for Customs Broker Continuing Education Task Force (Task Force), which was placed within COAC under the Rapid Response Subcommittee. The objective was to develop a proposed framework for continuing education for individual brokers. This Task Force was comprised of representatives throughout CBP and licensed customs brokers from around the country with decades of experience with international trade. Through this Task Force, members provided valuable input, advice, and operational perspectives.

In conjunction with the work of the Task Force and a previous COAC recommendation,[9] CBP published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (85 FR 68260) on October 28, 2020. The ANPRM announced that CBP was considering the adoption of a continuing education requirement for licensed customs brokers. The ANPRM solicited comments on the tentative framework developed by the Task Force for purposes of gathering further information and data from the broader customs broker community. This request for information and data assisted CBP in considering whether, and if so what type of, requirements would contribute to increased trade compliance. The ANPRM solicited comments on the following issues:

- The number of hours of continuing education that customs brokers should be required to complete;
- The customs broker license holders who should be required to complete continuing education (including license holders who should be exempt from the requirement or required to complete fewer hours of continuing education);
- The types of training, coursework, or other educational activities that should qualify for continuing education credit;
- The manner in which qualifying continuing broker education should be provided (online or in-person);
- Whether subject-matter-specific education requirements should be imposed;
- How compliance with the continuing broker education requirement should be reported to CBP;
- What recordkeeping obligations should exist for the purpose of the continuing broker education requirement;
- What disciplinary actions should be taken if customs brokers fail to report their compliance with the continuing broker education requirement to CBP, or, in the alternative, fail to satisfy the continuing broker education requirement;
- What disciplinary actions should result from the submission of false or misleading information in association with the continuing broker education requirement;
- Whether disciplinary actions should be taken immediately upon a customs broker's failure to report compliance with the continuing broker education requirement, or whether customs brokers should be provided with an opportunity to take corrective actions, including the length of such period;
- Whether there should be an accreditation process to control the quality of the content of the various educational activities (including how such an accreditation process should be administered, how accreditors should be selected, and whether educational activities offered through certain content providers should automatically qualify for continuing education credit);
- The types of training, coursework, or educational activities that customs brokers already complete on a regular basis;
- How often customs brokers currently participate in continuing education;
- The costs customs brokers would anticipate to incur as a result of the implementation of a continuing broker education requirement; and
- The benefits customs brokers would anticipate as a result of the implementation of a continuing broker education requirement.

The ANPRM provided for a 60-day public comment period, which closed on December 28, 2020. During the 60-day public comment period, CBP received 29 comments.[10] Of the 29 submissions, 23 submissions were generally supportive of the implementation of a continuing education requirement and 5 submissions were not supportive of the adoption of a continuing education requirement. One submission consisted of a question, and, thus, neither expressed the commenter's support of or opposition to a continuing education requirement.

In developing this NPRM, CBP carefully considered all public comments submitted in response to the ANPRM. Below are summaries of comments on topics that received the most attention and short descriptions of

[4] World Customs Organization, *WCO Customs Brokers Guidelines,* at 28 (June 2018), *available at http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/tools/wco-customs-brokers-guidelines.aspx.*

[5] *Id.*

[6] *Id.*

[7] COAC is jointly appointed by the Secretary of the Treasury and the Secretary of DHS and advises the Secretary of the Treasury and the Secretary of Homeland Security on all matters involving the commercial operations of CBP. Meetings of COAC are presided over jointly by the Deputy Assistant Secretary for Tax, Trade, and Tariff Policy of the Department of Treasury and Commissioner of CBP. *See* section 109 of TFTEA.

[8] For a list of COAC recommendations that were considered open as of April 27, 2016, see Commercial Customs Operations Advisory Committee, *Term to Date Recommendations: Trade Modernization Subcommittee*, *Recommendation Nos. 10046–10047* (April 27, 2016), *available at https://www.cbp.gov/sites/default/files/assets/documents/2019-Dec/_COAC%20Recommendations%20To%20Date%20010001%20-%20010412.pdf.*

[9] *See id.*

[10] The public comments can be viewed in their entirety on the public docket for the ANPRM, Docket No. USCBP 2020–0042, which can be accessed through *https://www.regulations.gov.*

how they affected the formulation of the framework proposed in this NPRM. CBP will provide more detailed descriptions of the comments and responses to the issues raised therein when responding to the comments received for this NPRM.

1. Required Number of Hours of Continuing Education

Seven commenters recommended that CBP require customs brokers to complete, at a maximum, 36 hours of continuing broker education every three years, rather than the 40 hours of continuing broker education per triennial period that was considered in the ANPRM. CBP believes that requiring individual brokers to complete on average one hour of continuing education per month will make it easier for individual brokers to plan their continuing education. Continuing education requirements of one hour of continuing education per month have been adopted for many other professions.[11] CBP also believes that requiring more than 36 hours of continuing broker education per triennial period could be burdensome for the customs broker community (especially individual brokers operating as or working for small businesses) and a lower requirement would be insufficient to ensure that individual brokers keep abreast of changes in customs and related laws. Accordingly, CBP has adopted the commenters' suggestion in this NPRM and is proposing to require that individual brokers complete 36 hours of continuing broker education per triennial period.

2. Qualifying Continuing Education

Seven commenters suggested that corporate, in-house training should be eligible for continuing education credit. CBP agrees that corporate, in-house training can serve as an appropriate continuing education activity, as it is routinely given to employees to provide them with knowledge specifically tailored to their job functions and experience levels. As such, CBP's proposal would allow customs brokers to satisfy the continuing education requirement through corporate, in-house training if the training receives the approval of an accreditor. CBP believes that requiring corporate, in-house training to be approved by an accreditor will ensure that it meets the objectives of the continuing education framework proposed in this NPRM.

Three commenters also suggested that any training or educational activity provided by CBP, or offered by any other U.S. Government agency that routinely offers training relevant to customs business, should automatically qualify for continuing education credit, without the need for accreditation. CBP agrees and believes that these types of activities should automatically qualify for continuing education credit, thus limiting the administrative burden and overall costs associated with the implementation of the proposed rule. Additionally, CBP's trainings are designed to educate the public about important and timely issues facing entities involved in international trade, and, thus, by virtue of their design, meet the objectives of continuing broker education—that is, to assist individual brokers in maintaining a sufficient knowledge of customs matters. Accordingly, CBP adopted the commenters' suggestion in this NPRM.

3. Specific Subject Matter Content Requirements

Five commenters raised concerns pertaining to CBP's proposal to require customs brokers to complete a specific number of hours of continuing education on specific subject matter areas (content requirements). In the ANPRM, CBP solicited public comments on the adoption of a continuing broker education framework that would have required the majority (75 percent) of the required continuing education credits to pertain to laws authorizing CBP operations and processes, as well as CBP regulations and programs. Under the proposal considered in the ANPRM, only the remainder (25 percent) would have been available for education focusing on other areas related to international trade (such as other U.S. Government agency requirements).

All commenters that addressed specific subject matter areas raised concerns about the adoption of the ANPRM's stringent content requirement. These commenters noted that such a content requirement would discourage individual brokers from participating in continuing education specifically tailored to their job functions and their experience levels, and, therefore, would inhibit professionalism and competency within the customs broker community. In light of the commenters' concerns, CBP is not proposing to require individual brokers to complete a specific number of hours of continuing education on laws authorizing CBP operations and processes, and CBP regulations and programs. CBP recognizes that the educational needs of individual brokers differ greatly based on each individual broker's position, experience level, and type of employment, and, thus, render content requirements impractical. Additionally, CBP believes that, as CBP and the PGAs offer a sufficient number of free, online-based trainings for an individual broker to meet the required number of continued education credits, there is little risk that an individual broker would opt to complete the same training or educational activity multiple times solely for the purpose of earning the required minimum number of continuing education credits.

4. Recordkeeping Requirements

Four commenters agreed with CBP's suggestion that although individual brokers should maintain records documenting their compliance with the continuing broker education requirement (including specific information), they should not be required to maintain records in any specific format (*i.e.,* electronically or in paper). Although the commenters agreed with this suggestion, several of the commenters requested that a form be developed in the Automated Commercial Environment (ACE) where customs brokers could record their credits as they are earned and accrued. In accordance with the commenters' suggestions, this NPRM does not propose requiring customs brokers to maintain records documenting their compliance with the continuing broker education requirement in any specific form, although the proposed regulations require such records to include certain information and documentation, which are discussed in further detail in section IV.C.4. of this NPRM. CBP appreciates the commenters' suggestion and will consider developing such a tool in ACE. If developed, customs brokers would not be required to use the ACE tool, but it would serve as an option for individuals to track their credits earned. However, this ACE tool would not be a substitute for maintaining records documenting compliance with the continuing broker education requirement.

[11] *See, e.g.,* Ala. R. Mand. Cont. Legal Ed. Rule 3, *available at https://www.alabar.org/assets/2019/02/MCLE-RULE-BOOK-2017-updated-01-17-2017.pdf* (accessed on July 16, 2021); Ark. R. Minimum Con't Legal Educ. Rule 4, *available at https://rules.arcourts.gov/w/ark/rules-for-minimum-continuing-legal-education#!fragment/zoupio-_Toc44590166/BQCwhgziBcwMYgK4DsDWszIQewE4BUBTADwBdoAvbRABwEtsBaAfX2zgBYOBWATgAYAjADZhASgA0ybKUIQAiokK4AntADk6iRDi5sAG30BhJGmgBCZNsJhcrCRcrWbrthAGU8pAEJqASgFEAGX8ANQBBADkjfwlSMgAgEgA* (accessed on July 16, 2021); Conn. Practice Book § 2–27A, *available at https://www.jud.ct.gov/Publications/PracticeBook/PB.pdf* (accessed on July 16, 2021); Cal Bus & Prof Code § 1275, *available at https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1275&lawCode=BPC* (accessed on July 16, 2021).

5. Economic Impact

Four commenters raised concerns about the costs of requiring continuing education and the potential impact of a continuing broker education requirement on small businesses. CBP appreciates these comments and has developed the proposed framework for continuing broker education with this concern in mind. In addition to lowering the originally proposed number of required hours of continuing education, CBP is also committed to providing free, online content that will satisfy the continuing broker education requirement. CBP already provides at least 36 hours of training or informational webinars on an *annual* basis, which would allow individual brokers to fully satisfy the continuing broker education requirement through free, CBP-provided content. As described in more detail below, CBP is also proposing that, once accreditation has been obtained for training or educational activities, the vast majority of continuing education currently obtained at a broker's expense for various certificate programs offered by the private sector would qualify for continuing education credit.

6. Effectiveness of Continuing Education

Five commenters were opposed to the introduction of a continuing education requirement for customs brokers, arguing that this would not affect compliance and that customs brokers demonstrate their knowledge of customs business on a transactional basis with their clients. A number of the commenters also requested that customs brokers who do not actively file entries should be exempt from the requirement. CBP disagrees and is proposing that all individual brokers, regardless of filing status, earn continuing education credit, with the exception of those individual brokers who have voluntarily suspended their licenses in accordance with 19 CFR 111.52. Furthermore, CBP continues to believe that the complex and evolving realm of international trade warrants a continuing education framework for individual brokers.

IV. Discussion of Proposed Framework for Continuing Education for Licensed Customs Brokers

CBP is proposing amendments to 19 CFR part 111 to require continuing education for individual customs broker license holders. CBP's proposal includes the addition of a new subpart F to 19 CFR part 111, consisting of §§ 111.101 through 111.104, which will set forth the continuing broker education requirement and the framework for administering this requirement. Proposed § 111.101 sets forth the scope of proposed subpart F, proposed § 111.102 sets forth the obligations that individual customs brokers would have in conjunction with the continuing broker education requirement, proposed § 111.103 contains the requirements that educational activities would be required to meet in order to satisfy the continuing broker education requirement and sets forth an accreditation process for certain training or educational activities, and proposed § 111.104 sets forth the disciplinary proceedings for the failure to comply with the continuing broker education requirement.

CBP is also proposing to amend several existing provisions in 19 CFR part 111. CBP is proposing to require individual brokers to certify and report their compliance with the continuing broker education requirement as part of the submission of the status report, which is due on a triennial basis (hereinafter, referred to as ''status report'' or ''triennial report'') by amending § 111.30(d). Additionally, CBP is proposing to amend § 111.0, which sets forth the scope of part 111, in order to reflect the addition of proposed subpart F, and amend § 111.1, which is a definitional provision, in order to define certain terms as they are used in the context of the continuing broker education requirement. Finally, CBP is proposing to reserve §§ 111.97 through 111.100 for future use. The proposed changes are described in detail below.

A. Modifications to the Scope of 19 CFR Part 111

Section 111.0 sets forth the scope of the provisions contained in 19 CFR part 111, which currently include the licensing of, and granting of permits to, persons desiring to transact customs business as customs brokers, the duties and responsibilities of customs brokers, and the grounds for disciplining customs brokers. CBP is proposing to revise the second sentence of § 111.0 to reflect the proposed addition of regulatory provisions requiring individual brokers to satisfy a continuing education requirement.

B. Definitions for the Proposed Continuing Broker Education Framework

Section 111.1 provides definitions for terms as they appear in 19 CFR part 111. For purposes of the creation of a continuing education requirement for individual brokers, CBP is proposing the addition of definitions of four terms—''continuing broker education requirement'', ''continuing education credit'', ''qualifying continuing broker education'', and ''triennial period''. Although amended § 111.1 would continue to list definitions in alphabetical order, this section discusses the proposed definitions in logical order, for explanatory purposes.

The term ''qualifying continuing broker education'' defines any training or educational activity that is eligible or, if required, has been approved for continuing education credit, in accordance with proposed § 111.103. This definition indicates that a wide range of training or educational activities will meet an individual broker's obligation to complete continuing education, which must satisfy the requirements set forth in proposed § 111.103.

The term ''continuing education credit'' defines the unit of measurement used for meeting the continuing broker education requirement. The smallest recognized unit is one continuing education credit, which requires 60 minutes of continuous participation in a qualifying continuing broker education program, as defined in proposed § 111.103(a). For qualifying continuing broker education lasting more than 60 minutes, one continuing education credit may be claimed for the first 60 minutes of continuous participation, and half of one continuing education credit may be claimed for every full 30 minutes of continuous participation thereafter. For example, for a qualifying continuing broker education program lasting more than 60 minutes but less than 90 minutes, only one continuing education credit may be claimed. In contrast, for a qualifying continuing broker education program lasting 90 minutes, 1.5 continuing education credits may be claimed.

The term ''continuing broker education requirement'' defines an individual customs broker license holder's obligation to complete a certain number of continuing education credits of qualifying continuing broker education, as set forth in proposed subpart F of part 111, in order to maintain sufficient knowledge of customs and related laws, regulations, and procedures, bookkeeping, accounting, and all other appropriate matters necessary to render valuable service to importers and drawback claimants.

The term ''triennial period'' defines a period of three years commencing on February 1, 1985, or on February 1 in

any third year thereafter.[12] As explained in further detail below, CBP is proposing to require individual brokers to report and certify compliance with the continuing broker education requirement on the triennial report. Thus, for purposes of clarification, CBP is proposing a definition for the 3-year period between the due dates of two consecutive status reports.

C. Continuing Education Requirements for Customs Brokers

In addition to requiring individual brokers to participate in continuing education activities, the proposed framework includes provisions imposing additional related duties upon individual brokers, such as reporting and recordkeeping requirements, that promote compliance and allow for the enforcement of the continuing education requirement. For these reasons, the proposed framework also contains provisions authorizing disciplinary actions upon a broker's failure to comply with these requirements. These requirements are contained in proposed §§ 111.102 and 111.104, which are discussed in detail below.

1. Customs Broker License Holders Subject to Continuing Broker Education Requirement

Proposed § 111.102(a) sets forth the customs broker license holders who will be subject to the continuing broker education requirement. Specifically, proposed § 111.102(a) provides that only individual customs broker license holders (individual brokers) will be required to complete qualifying continuing broker education. Proposed § 111.102(a) also exempts two groups of individual brokers from this requirement—namely, individual brokers who have voluntarily suspended their license in accordance with § 111.52, and individual customs broker license holders who have not held their license for an entire triennial period at the time of the submission of the status report as required under § 111.30(d). CBP does not believe that it is necessary to require continuing education for individual brokers who have not held their license for an entire triennial period at the time that their first triennial report is due, because these individual brokers have recently demonstrated a sufficient baseline knowledge of customs matters by passing the customs broker examination.

CBP is proposing to exempt individual brokers who have voluntarily suspended their license from the continuing broker education requirement because customs brokers may choose to voluntarily suspend their licenses for many reasons, including changes in a broker's personal life or the entry into federal service (which prohibits the customs broker from concurrently serving as a customs broker to transact customs business on behalf of clients in dealings with the federal government). As some of these reasons may prevent a broker from participating in or attending qualifying continuing broker education programs, CBP believes that requiring individual brokers to comply with the continuing broker education requirement during a period of voluntary suspension would be overly burdensome.

At this time, CBP is not proposing to impose a similar obligation onto corporation, partnership, or association brokers (hereinafter, collectively referred to as ''corporate brokers''), because knowledge is held at the individual level. The reason is because corporate brokers are comprised of one or more individual brokers and the individual brokers will be subject to the continuing education requirement. Furthermore, the training required of the employees of a customs broker is already taken into consideration when determining whether the license holder exercises responsible supervision and control. Pursuant to 19 CFR 111.28(a), every licensed member or officer of a corporate broker that is an individual broker, as well as every individual broker operating as a sole proprietor, is obligated to exercise responsible supervision and control over the transaction of the customs business of the sole proprietorship, partnership, association, or corporation.[13] Therefore, individual brokers who serve as members or officials of a corporate broker, as well as individual brokers who operate as sole proprietorships with employees, are already incentivized to ensure that the employees of the sole proprietorship, partnership, association, or corporation complete continuing education. Accordingly, CBP does not believe that it is necessary to impose a similar obligation on corporate brokers at the organizational level.

2. Required Minimum Number of Continuing Education Credits

Proposed § 111.102(b) sets forth the number of continuing education credits that individual brokers, who, pursuant to proposed § 111.102(a), are subject to the continuing broker education requirement, must complete. Specifically, proposed § 111.102(b) provides that these individual brokers are required to complete at least 36 continuing education credits per triennial period, except upon the reinstatement of a license following a period of voluntary suspension as described in § 111.52. Upon consideration of the public comments received on the ANPRM, CBP is no longer proposing to require 40 continuing education credits per triennial period, as this will simplify the proration of continuing education credits for the purposes discussed below.

When a broker chooses to reactivate his or her license following a period of voluntary suspension, the broker generally contacts CBP to begin the reinstatement process. This process determines the precise date on which the license will be reinstated, which may occur at any time during the triennial period. Thus, after a period of voluntary suspension, the completion of the full 36 continuing education credits within the remainder of the current triennial period could impose an undue burden upon the individual broker, depending on when during the triennial period the reinstatement occurs. To address this, proposed § 111.102(b) provides that, following the reinstatement of a license after a period of voluntary suspension, the number of continuing education credits required for the triennial period (that is, the triennial period during which the reinstatement of the license occurs) is calculated on a prorated basis, of one continuing education credit for each complete remaining month until the end of the triennial period.

For example, if, following a period of voluntary suspension, an individual broker's license were to be reinstated on March 21, 2028, the individual broker would only be required to complete 22 continuing education credits during the triennial period (February 1, 2027, to February 1, 2030) in which the license was reinstated. Effectively, the amount of continuing education credits required is prorated for the number of full months remaining in the triennial period (April 1, 2028, to February 1,

[12] February 1, 1985, was the first due date for the triennial reporting requirement, and, thus, February 1 in any third year thereafter is the date on which the triennial report becomes due. *See* 19 CFR 111.30(d)(1).

[13] Section 111.1 defines the phrase ''responsible supervision and control'' and provides, in relevant part, that one of the factors that CBP will consider in determining whether the customs broker exercises responsible supervision and control is the training required of the employees of the broker. However, the determination of what is necessary to perform and maintain responsible supervision and control will vary depending upon the circumstances in each instance. *See* 19 CFR 111.1.

2030). As another example, if the individual broker's license were to be reinstated on February 1, 2027, the individual broker would be required to complete all 36 continuing education credits during the triennial period. When, following a period of voluntary suspension, the individual broker contacts CBP to request the reinstatement of the license, CBP will assist the broker in determining the prorated number of continuing education credits that he or she will be required to complete during the current triennial period.

3. Reporting of Compliance With the Continuing Broker Education Requirement

Proposed § 111.102(c) provides that individual brokers, who are required to comply with the continuing broker education requirement, will be subject to an additional reporting obligation. Specifically, CBP is proposing to require individual brokers to report and certify their compliance with the continuing broker education requirement upon the submission of the status report required under existing § 111.30(d).

Current § 111.30(d)(1) requires both individual and corporate brokers to file a status report with CBP. The status report is due on February 1 of each third year after 1985, and will be considered timely filed as long as the report is received during the month of February. As part of the submission of the triennial report, customs brokers are required to pay a fee, which is prescribed in paragraph (d) of § 111.96. Status reports must be addressed to the director of the port through which the license was delivered to the licensee (*see* § 111.15), or, since the February 2021 triennial period, can be filed in the eCBP portal (available at *https://e.cbp.dhs.gov/ecbp/#/main*). The information that must be included in a status report submitted by an individual broker is set forth in current § 111.30(d)(2).

As proposed § 111.102(c) would impose upon individual brokers the obligation to report and certify their compliance with the continuing broker education requirement upon the submission of the status report, CBP is also proposing to amend current § 111.30(d)(2) to reflect this obligation by adding a new paragraph (d)(2)(iv) to reflect that individual customs brokers must report and certify their compliance with the continuing broker education requirement. CBP is also proposing minor grammatical changes to existing paragraphs (d)(2)(ii) and (iii) of § 111.30 in order to allow for the addition of proposed paragraph (d)(2)(iv); however, these changes are not substantive.

Individual brokers who file paper-based triennial reports with CBP would report and certify compliance by including a written statement in the triennial report that reports and certifies their compliance with the continuing broker education requirement.

CBP is proposing to require individual brokers to report and certify compliance on the triennial report for two reasons. First, as the status report has been an integral part of maintaining a customs broker license since 1985, this mechanism is familiar to customs brokers and will minimize any additional burden that the new reporting obligation would place upon individual brokers. As individual brokers are already accustomed to the submission of status reports, individual brokers would not need to familiarize themselves with a new type of information collection. Second, aligning the timeframe for continuing education with the three-year filing timeframe for the status report will give individual brokers a number of years to earn the required number of continuing education credits. This will provide them with flexibility and the opportunity to select qualifying continuing broker education programs that best meet their individual educational needs.

4. Recordkeeping Requirements for Individual Customs Brokers

In conjunction with the continuing education requirement, CBP is proposing to require individual brokers to maintain records documenting their completion of the required number of continuing education credits. This requirement is set forth in proposed § 111.102(d), and is intended to enable CBP to verify an individual broker's compliance with the requirements set forth in paragraphs (a) and (b) of proposed § 111.102.

Proposed § 111.102(d)(1) provides that, for a period of three years following the submission of the status report required under § 111.30(d), an individual broker must retain certain information and documentation pertaining to the qualifying continuing broker education completed during the triennial period. Proposed § 111.102(d)(1) contains a list of the type of information and documentation that must be retained, consisting of: (1) The title of the qualifying continuing broker education attended; (2) the name of the provider or host of the qualifying continuing broker education; (3) the date(s) attended; (4) the number of continuing education credits accrued; (5) the location of the training or educational activity, if the training or educational activity is offered in person; and (6) any documentation received from the provider or host of the qualifying continuing broker education that evidences the individual broker's registration for, attendance at, completion of, or other activity bearing upon the individual broker's participation in and completion of the qualifying continuing broker education. The last item would include receipts or confirmations documenting the individual broker's intention to attend the qualifying continuing broker education program, written or electronic materials provided as part of the attendance of the training or educational activity, or certificates of completion or attendance. An individual broker would only be required to retain such documentation, if such documentation is made available by the provider or host of the qualifying continuing broker education to attendees of the training or educational activity. Unlike the general broker record retention requirement in current 19 CFR 111.23(b), the recordkeeping requirement in proposed § 111.102(d)(1) only requires the records to be retained for a period of three years following the submission of the triennial report (rather than for a five-year period).

Upon consideration of the comments received in response to the ANPRM, CBP is not proposing to require individual brokers to maintain the records in a specific format (*i.e.,* electronically or in paper). For example, if the individual broker received paper documents in the mail or in person from an education provider, the individual broker could retain the information in that form, or could scan and retain it in electronic form. Based on several public comments to the ANPRM, CBP will explore building a tool in ACE that would serve as a place to record and track continuing education credits, but this would not be a substitute for document retention by the individual broker. Individual brokers would not be required to access or use this tool; rather, it would provide a means to record continuing education credits earned over time if convenient for the individual broker.

Proposed § 111.102(d)(2) provides CBP with authority to request the information and documentation for a period of three years following the submission of the status report required under § 111.30(d)(2). CBP can request the information and documentation be made available for in-person inspection, or be delivered to CBP by either hard-copy or electronic means, or any combination thereof. Proposed § 111.102(d) is intended to enable CBP

to verify an individual broker's compliance with the requirements set forth in paragraphs (a) and (b) of this proposed section—that is, the completion of the required number of continuing education credits during the triennial period.

5. Disciplinary Actions

Proposed § 111.104 authorizes CBP to take disciplinary actions, if an individual broker, who is required to complete qualifying continuing broker education, submits a triennial report but fails to report and certify his or her compliance with the continuing broker education requirement on the triennial report. These actions take a path of ''progressive discipline'' by imposing increasingly serious measures following a reasonable time and opportunity to take corrective actions. This approach is rooted in CBP's goal to ensure that all individual brokers participate in continuing education activities, but not to take disciplinary actions against brokers for mere clerical errors, such as the failure to report compliance with the continuing broker education requirement due to a mere oversight.

Proposed § 111.104(a) provides that, if an individual broker, who is required to complete qualifying continuing broker education, submits a triennial report but fails to report and certify his or her compliance with the continuing broker education requirement on the triennial report, CBP will notify the individual broker of his or her noncompliance. Pursuant to proposed § 111.104(a), CBP would send the notification to the address reflected in CBP's records or transmit it electronically pursuant to any electronic means authorized by CBP for that purpose. This language would authorize CBP to send such notification to the mailing address that the individual broker listed on the status report or via email (if the individual broker's email address is on file with CBP).

Proposed § 111.104(b) requires the noncompliant individual broker to take appropriate corrective actions within 30 calendar days upon the issuance of such notification. During this period, the individual broker would be provided with an opportunity to take corrective actions without being subjected to any disciplinary consequences for his or her noncompliance. As reflected in paragraphs (b)(1) and (2) of proposed § 111.104, the nature of the required corrective actions is determined by the reason for the individual broker's failure to report and certify compliance on the triennial report. If the individual broker completed the required number of continuing education credits, but failed to report and certify his or her compliance with the continuing broker education requirement on the triennial report, the broker would merely be required to submit a corrected triennial report that reflects the broker's compliance. If the individual broker did not report and certify compliance on the triennial report because the broker did not complete the required number of continuing education credits, the broker would be required to complete the required number of continuing education credits and then submit a corrected triennial report.

Proposed § 111.104(c) provides that, if the noncompliant individual broker fails to take the required corrective actions within 30 calendar days upon the issuance of the aforementioned notification, CBP will take actions to suspend the broker's individual license. Upon the suspension of the individual broker's license and the issuance of the order of suspension, the individual broker would be provided with an additional opportunity to take the required corrective actions before CBP would take more serious disciplinary measures. Specifically, in paragraph (d), proposed § 111.104 provides that, if following the suspension of the license the noncompliant individual fails to take the required corrective actions within 120 calendar days upon the issuance of the order of suspension, CBP will take actions to revoke the individual broker's license without prejudice to the filing of an application for a new license. As proposed § 111.104(d) provides that the individual broker's license would be revoked without prejudice to the filing of an application for a new license, the individual broker would not be prevented from seeking a new individual customs broker license at a later point in time.

Existing § 111.53(c) provides the relevant basis for the suspension and/or revocation of a customs broker's license when an individual broker fails to submit a status report reporting and certifying his or her compliance with the continuing broker education requirement. Section 111.53(c), which authorizes CBP to initiate proceedings for the suspension, for a specific period of time, or revocation of the license or permit of any broker for any violation of a statutory provision enforced by CBP or any rule or regulation issued by CBP, implements 19 U.S.C. 1641(d)(1)(C). Consequently, pursuant to 19 U.S.C. 1641(d)(2)(B), as implemented by subpart D of part 111 (19 CFR part 111, subpart D), CBP would be required to comply with certain formal procedural requirements in suspending or revoking the individual broker's license, which would conclude with the issuance of an order of suspension or revocation. This is reflected in paragraphs (c) and (d) of proposed § 111.104 through the cross-references to subpart D of part 111. As such, CBP is not adopting either of the proposals considered in the ANPRM—that is, to suspend or revoke an individual broker's license by operation of law.

The provisions of proposed § 111.104 would only apply to cases in which an individual broker, who is required to complete qualifying continuing broker education, submits a triennial report but fails to report and certify his or her compliance with the continuing broker education requirement on the triennial report. CBP believes that any other type of misconduct could be sufficiently addressed through existing regulatory provisions. For example, if an individual broker were to fail to timely submit a triennial report, or to submit no triennial report at all, CBP would continue to seek the suspension and/or revocation of the individual broker's license in accordance with the provisions of current § 111.30(d)(4). Additionally, current § 111.53(a), which implements 19 U.S.C. 1641(d)(1)(A), authorizes CBP to initiate proceedings for the suspension, for a specific period of time, or revocation of the license or permit of a customs broker, if the broker has, among others, made in any report filed with CBP any statement which was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any report any material fact which was required.

In the context of the proposed framework, CBP foresees that violations of § 111.53(a) could arise from the following misconduct. First, a violation of § 111.53(a) would occur, if an individual broker were to falsely report and certify compliance with the continuing broker education requirement on the triennial report when, at the time of the submission of the triennial report, the individual broker had not completed the required number of continuing education credits. This would include cases in which an individual broker, who has not yet completed the required number of continuing education credits, submits a triennial report on which the broker reports and certifies compliance, but later completes the required number of continuing education credits. Second, a violation of § 111.53(a) would occur, if, in accordance with proposed § 111.102(d)(2), CBP were to request additional documentation from an

individual broker to verify the broker's compliance with the continuing broker education requirement, and the documentation submitted by the broker were to contain any statement which, at the time and in light of the circumstances under which it was made, is false or misleading with respect to any material fact, or omitted a material fact. This would include the submission of falsified documentation, documentation containing false or misleading statements of material fact, or documentation omitting any material fact (such as the title or provider of a continuing education program, if the training or educational activity did not meet the requirements for qualifying continuing broker education). Third, a violation of § 111.53(a) would occur, if, in accordance with proposed § 111.102(d)(2), CBP were to request additional documentation from an individual broker to verify the broker's compliance with the continuing broker education requirement, and the individual broker were to be unable to submit any documentation in response to CBP's request.

D. Training and Educational Activities That Qualify as Continuing Broker Education

Although amended § 111.1 contains a proposed definition of the term ''qualifying continuing broker education'', this definition also provides that, in order to constitute qualifying continuing broker education, a training or educational activity must meet certain additional requirements. These requirements are set forth in paragraphs (a) and (b) of proposed § 111.103. Specifically, paragraph (a)(1) sets forth requirements for categories of educational providers (including both government and non-government providers), while paragraph (a)(2) lists the types of training or educational activities that are recognized for purposes of the continuing broker education requirement. Paragraph (b) of proposed § 111.103 contains provisions pertaining to continuing education credits that are earned as an instructor, discussion leader, and speaker.

1. Categories of Educational Providers

Proposed § 111.103(a)(1) divides training or educational activities into two categories based on the identity of the content provider offering the training or educational activity. Pursuant to proposed paragraph (a)(1)(i), the first category consists of training or educational activities offered by U.S. Government agencies. Specifically, paragraph (a)(1)(i) provides that qualifying continuing broker education constitutes any training or educational activity offered by CBP, whether online or in-person, and any training or educational activity offered by another U.S. Government agency, whether online or in-person, if the content is relevant to customs business. These types of trainings or educational activities would not require the approval of a CBP-selected accreditor and would qualify for continuing education credit automatically.

CBP is proposing that training or educational activities offered by U.S. Government agencies should automatically qualify for continuing education credit, without the approval by a CBP-selected accreditor, because quality control of the content is less of a concern with regard to this type of content provider. Training or educational activities offered by CBP are designed to educate the public about important and timely issues faced by entities involved in international trade. Thus, CBP believes that, by virtue of their design, these training or educational activities meet the objectives of the continuing broker education framework—that is, to assist individual brokers in maintaining a sufficient knowledge of customs matters. Additionally, CBP believes that other U.S. Government agencies carefully select educational content based on timeliness and importance, and accurately present the content to members of the public.

CBP believes that allowing training or educational activities offered by CBP, or other U.S. Government agencies, if they provide educational content that is relevant to customs business, to automatically qualify for continuing education credit will limit the administrative burden and costs associated with the implementation of the proposal. CBP's proposal deliberately provides individual brokers with wide latitude when determining whether a training or educational activity offered by an U.S. Government agency other than CBP is relevant to customs business. This discretion empowers individual brokers with the ability to select training or educational activities based on their individual educational needs. CBP also anticipates making a list of recommended U.S. Government agency provided training or educational activities publicly available on the CBP website to allow individual brokers to easily identify activities that are free of cost and automatically qualify for continuing education credit.

Pursuant to proposed paragraph (a)(1)(ii), the second category of educational providers consists of training or educational activities offered by a content provider other than a U.S. Government agency. Any training or educational activity not offered by a U.S. Government agency (such as private-sector entities, non-profit organizations, and foreign government agencies), whether online or in-person, will not be considered qualifying continuing broker education, unless the training or educational activity has been approved for continuing education credit by a CBP-selected accreditor before the training or educational activity is provided. CBP is proposing to require accreditation for such training or educational activities to ensure that they offer educational content that is high-quality, current, relevant, and accurate, and that it is directly tied to customs business.

As noted previously, CBP is not proposing the adoption of subject-matter-specific content requirements at this time in order to enable individual brokers to participate in educational opportunities that provide them with knowledge directly relevant to their specific position and experience level. Additionally, to encourage the creation of low-cost educational opportunities that satisfy the continuing broker education requirement, CBP's proposal does not differentiate between educational opportunities that are offered online or in-person. CBP intends for this to minimize the costs to small businesses and customs brokers in remote locations so that individual brokers will not be required to travel to attend qualifying continuing broker education programs. CBP believes that the opportunity for individual brokers to earn the required number of continued education credits through free, online-based trainings would further incentivize individual brokers to select training or educational activities based on their educational needs and, thereby, limit the risk that individual brokers complete the same training or educational activities multiple times solely for the purpose of earning the required minimum number of continuing education credits.

Regardless of who provides the training or educational activities, CBP anticipates that providers will issue certificates to customs brokers upon completion. CBP will make certificates of attendance available for all of its training or educational activities to those participants who want them. For online-based training or educational activities, CBP will make certificates of attendance available for download or printing at the conclusion of the presentation. For in-person activities, such as the Trade Symposium, CBP will make paper certificates available to

licensed customs brokers to pick up prior to the end of the conference. Additionally, because one of the factors to become a CBP-selected accreditor will be to design and develop certificates for approved education providers to use as needed, certificates of attendance will also be available for any qualifying continuing broker education offered by private, non-profit, or foreign government entities.[14]

CBP will work with its PGAs to make them aware of the new continuing education requirements, if finalized, so that the PGAs can consider making available certificates of attendance or completion, whether in electronic or paper form. However, CBP is unable to require its PGAs to provide certificates of attendance or completion. Proposed § 111.102(d)(1)(iv) thus only requires an individual broker to retain any documentation that the individual broker received from the provider or host of the qualifying continuing broker education that evidences the individual broker's registration for, attendance at, completion of, or other activity bearing upon the individual broker's participation in and completion of the qualifying continuing broker education. Therefore, the language in proposed § 111.102(d)(1)(iv) accounts for the possibility that certificates of attendance or completion may not be issued for all qualifying training or educational activities provided by its PGAs.

2. Recognized Training or Educational Activities

CBP is proposing that only certain categories of training or educational activities may be considered qualifying continuing broker education. The list of recognized categories of training or educational activities is contained in paragraphs (a)(2)(i) through (iv) of proposed § 111.103. Paragraph (a)(2)(i) provides that the first category consists of coursework, seminars, or workshops, whether online or in-person, that are conducted by an instructor, discussion leader, or speaker. This category would include most webinars, in-house training, university or college courses, or similar educational programs.

Paragraph (a)(2)(ii) provides that the second category includes symposia and conventions, whether online or in-person. This category would include the annual CBP Trade Symposium and similar educational programs. However, meetings that are conducted in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (FACA), are expressly excluded from this category. As such, individual brokers would not be permitted to claim continuing education credit for their participation in committees, subcommittees, workgroups, and any other group organized under the auspices of the Commercial Customs Operations Advisory Committee (COAC), as well as public COAC meetings. CBP is proposing to exclude FACA meetings because these meetings do not serve an educational purpose. FACA meetings are intended, instead, to solicit advice from advisory committee members and to receive input from the public that may later form the basis for government decisions.

The last two categories of recognized training or educational activities are set forth in paragraphs (a)(2)(iii) and (iv) which will permit individual brokers serving as instructors, discussion leaders, or speakers to receive continuing education credit for the time spent preparing a subject matter for presentation and presenting a subject matter (hereinafter, referred to as ''special allowance''). Paragraphs (a)(2)(iii) and (iv) provide that the subject matter must be presented as part of a training or educational activity that falls within one of the first two recognized categories of training or educational activities (that is, the categories described in paragraphs (a)(2)(i) and (ii) of proposed § 111.103), and the special allowance for instructors, discussion leaders, or speakers is subject to the conditions and limitations set forth in proposed § 111.103(b).

While CBP is proposing to carve out a special allowance for certain instructors, discussion leaders, or speakers, CBP is not proposing to permit individual brokers to claim continuing education credit for authoring articles, books, or other publications. CBP believes that the learning involved in the authoring of a publication does not necessarily equate to the knowledge derived from a continuing education program that is current and developed by an individual or organization qualified in the relevant subject matter, as the learning does not necessarily include an interactive component. For this reason, CBP is also not including credit hours for independently reading articles, books, or other publications or for paid subscriptions to these types of materials. If these materials are part of an accredited course, then the course hours may be eligible for continuing education credit.

3. Special Allowance for Instructors, Discussion Leaders, and Speakers

Proposed § 111.103(b) sets forth additional requirements and limitations pertaining to the special allowance for instructors, discussion leaders, and speakers. In proposed paragraph (b)(1), CBP sets forth that, contingent upon the approval by a CBP-selected accreditor, an individual broker may claim one continuing education credit for each full 60 minutes spent presenting subject matter, or preparing subject matter for presentation, as a discussion leader, or speaker at a training or educational activity described in paragraphs (a)(2)(i) and (ii) of this section.

However, the special allowance for instructors, discussion leaders, and speakers is subject to limitations, which are set forth in proposed § 111.103(b)(2) and (3). Specifically, proposed § 111.103(b)(2)(i) provides that, for any session of presentation given at one time, regardless of the duration of that session, an individual broker may claim, at a maximum, one continuing education credit for the time spent preparing subject matter for that presentation pursuant to paragraph (b)(1)(ii). Further, proposed § 111.103(b)(2)(ii) also imposes a limit on the total number of continuing education credits that an individual broker can earn based on his or her activities as an instructor, discussion leader, or speaker. This limit is 12 continuing education credits per triennial period. CBP is proposing these limitations to ensure that individual brokers receive education in a broad variety of subject matters, not just provide instructions, possibly exclusively on the same subject matter.

As specified in proposed § 111.103(b)(3), any instructor, discussion leader, or speaker seeking to claim continuing education credit for the preparation of a subject matter for presentation, or the presentation of a subject matter, at one of a training or educational activity described in paragraph (a)(2)(i) or (ii) of proposed § 111.103, must obtain approval by a CBP-selected accreditor, regardless of whether the training or educational activity is offered by a U.S. Government agency or another provider. CBP is proposing this requirement in order to ensure that the effort and quality of the educational experience derived from the activities as an instructor, discussion leader, or speaker is commensurate with the award of continuing education credit.

Like content providers, the means by which an individual broker claiming continuing education credits under the

[14] As part of the RFP process, applicants will be required to provide CBP with information how they plan to handle the post-course certification process for those course providers who apply for accreditation.

special allowance would be notified of an accreditor's approval would vary based on the terms of the accreditor's contractual relationship with CBP, which is discussed in further detail in section IV.E. of this NPRM. Depending on the terms of the accreditor's contractual relationship with CBP, the individual broker would be notified of the accreditor's approval either in writing or electronically, or both. CBP anticipates that, as part of the selection process for the accreditors, it will require each accreditor to (1) provide CBP with a running list of activities that the accreditor approved, and/or (2) publish this list on its website. A failure to observe the requirements and limitations set forth in proposed § 111.103(b) would result in a failure to comply with the continuing broker education requirement for the triennial period. Thus, if an individual broker were to fail to observe the requirements and limitations set forth in proposed § 111.103(b) and to report and certify compliance with the continuing broker education requirement on the triennial report, the individual broker would falsely report and certify compliance on the triennial report. As a result, CBP could impose disciplinary actions pursuant to proposed § 111.104 and existing § 111.53(a).

E. Accreditation of Providers of Continuing Broker Education

CBP believes that it is necessary to implement an accreditation process for training or educational activities not offered by a U.S. Government agency, including the special allowance for instructors, discussion leaders, or speakers, to ensure that such activities meet the objectives of the continuing broker education requirement. Due to resource constraints, CBP is not well positioned to administer the accreditation of training and educational activities. Thus, CBP, through the Office of Trade, is proposing to select accreditors who will review and approve or deny such training or educational activities for continuing education credit. Below is a description of the selection process, which is outlined in proposed § 111.103(c), and the accreditation process, which is outlined in paragraphs (d) and (e) of proposed § 111.103.

1. Selection of Accreditors

As reflected in proposed § 111.103(c), CBP is proposing to select third-party accreditors using common government contracting procedures, which would include the issuance of a Request for Information (RFI) and a Request for Proposal (RFP). CBP would administer this process through the Office of Trade in accordance with the requirements of the Federal Acquisition Regulation (48 CFR chapter 1) (the FAR). While selected accreditors would administer the accreditation of the training or educational activities as part of their contractual relationship with CBP, selected accreditors would not receive a monetary award from CBP as a result of this contractual relationship. However, selected accreditors would be permitted to charge content providers for their services to recoup their expenses in reviewing and approving or denying training or educational activities for continuing education credit, as long as the fees are clearly displayed on the accreditors' website and materials. The remainder of this section lays out the basic framework that CBP is proposing for the review and approval of potential accreditors. The specific obligations that accreditors under contract with CBP would be required to meet would be provided in more detail in the RFI, and then in even more granular detail, in the RFP.

Because this is a new program for both CBP and the customs broker community, CBP plans to initiate the selection process through the issuance of an RFI. The RFI would be posted in the System for Award Management (available at *https://sam.gov/SAM/*) (SAM).[15] The RFI would lay out the basic criteria that CBP believes a future accreditor must meet in order to successfully review activities for continuing education credit. Currently, CBP expects to propose the following criteria:

- At least one key official in the entity must have a customs broker's license;
- A demonstrated knowledge of international trade laws, customs laws and regulations, and general customs practices for imported goods and goods subject to drawback;
- A demonstrated knowledge of other U.S. Government agencies that are involved in transactions of international trade;
- A list of professional references;
- Resumes for the key personnel who would be involved in accrediting course work;
- A description of the process for how someone would submit a training or educational activity proposed for credit to the accreditor, including electronic and online methods for submitting materials for consideration;
- A description of the criteria the accreditor would use to approve or deny trainings or educational activities for continuing education credit;
- A description of how the accreditor would avoid conflicts of interest;
- A description of how the accreditor would track accreditation activity for CBP review;
- A description of how customers can provide feedback to the accreditor and CBP on the approval process;
- An estimate of the ''turn around'' time for approving/denying activities under consideration for accreditation; and
- An estimate of the charge, if any, for approving/denying an activity under consideration for accreditation.

Based on these criteria, along with other details that would be provided in the RFI, CBP would then hold an ''industry day'' with interested parties. As CBP-selected accreditors would not receive a monetary award from CBP, CBP anticipates that trade associations and law firms specializing in customs matters will make up the majority of parties interested in becoming CBP-selected accreditors. However, CBP encourages all interested parties to participate in the RFI process as it will provide interested parties with an opportunity to provide input that will shape the accreditation process. As part of this industry day, CBP would present its needs and expectations for the accreditation process and receive input on its initial proposal from parties that are potentially interested in providing accreditation services. This information would then be used to refine the above-listed criteria and prepare an RFP. CBP would then post the RFP in SAM. Following the publication of the RFP, interested parties would then respond with their proposals of how they would administer the accreditation process based on the criteria set forth in the RFP. A party that participated in the RFI process would be under no obligation to put forth a response to the RFP. Conversely, if a party interested in applying to become an accreditor did not respond to the RFI or participate in the industry day process, that party would not be precluded from responding to the RFP. CBP is not proposing an ''application fee'' for interested parties to submit a response to the RFP (fees to submit responses to RFPs are not permitted under the FAR).

[15] SAM is a U.S. Government website operated by the General Services Administration (GSA), and there is no cost for any entity to use the system. Through SAM, any entity can register to do business with the U.S. Government, update or renew an entity's registration, check the status of an entity registration, and search for any entity registration and exclusion records.

In addition to the publication of the RFI and RFP in SAM, CBP is proposing to announce the availability of the RFI and RFP through the publication of notices in the **Federal Register** by the Executive Assistant Commissioner, Office of Trade. This would ensure that the requests reach as wide an audience as possible, including parties that do not traditionally contract with the U.S. Government. In accordance with the provisions of proposed § 111.103(c), these **Federal Register** notices would contain information pertaining to the criteria that the Office of Trade will use to select an accreditor and the period during which CBP will accept applications by potential accreditors.

Following the issuance and publication of the RFP, CBP would review the proposals received and rate them based on the factors provided in the relevant section of the RFP. Based on these ratings, CBP would then select the accreditors approved for that cycle. Parties not selected for the cycle would have the opportunity to protest CBP's decision in accordance with the procedures set forth in the FAR. Following the selection of the approved accreditors, the Office of Trade will notify the approved accreditors of their award, and the Executive Assistant Commissioner, Office of Trade, will publish a notice in the **Federal Register** to inform the public and the customs broker community of the parties approved to provide accreditation services. In accordance with the provisions of proposed § 111.103(c), this **Federal Register** notice would contain information pertaining to the selected accreditors' period of award.

CBP is not proposing to set a target or a limit on the number of accreditors. Rather, the number will be determined by the strength of the proposals received and CBP's needs at the time of the RFP. CBP is proposing to introduce a period of award of three years, subject to renewal. This will provide CBP-selected accreditors with sufficient time to establish their accreditation programs and to begin with the accreditation of educational content while not creating a long period of time during which new interested parties would have to wait for the next selection cycle. In accordance with the provisions of the FAR, either party to the contract—whether the accreditor or CBP—would be permitted to terminate the contract with 30-days' notice. If an accreditor were to leave the program, the Executive Assistant Commissioner, Office of Trade, would publish a notice in the **Federal Register** announcing the departure.

Once awards have been made for the first cycle of accreditors, CBP envisions working closely with them—as a group and as individual parties—to provide directions and instructions, set expectations, develop due dates and milestones, and create a public outreach campaign to inform the affected customs broker community of the new program and opportunities. Once the program has been fully implemented, the Broker Management Branch within the Office of Trade will meet with the accreditors periodically to identify and exchange best practices, address areas of concern, and develop program metrics that can be shared with COAC and other members of the public as needed. Following the first 3-year cycle, CBP will announce the opening of a new application cycle through posts in SAM, and the Executive Assistant Commissioner, Office of Trade, will publish a notice in the **Federal Register** to the same effect.

CBP believes the approach outlined above will meet the following objectives, which CBP believes to be key to the program's success:

1. Multiple approved accreditors, which will allow for competition and keep costs at market level without creating a monopoly;

2. An open and transparent application process; and,

3. An opportunity for small businesses, such as law firms that specialize in customs law, and non-profit organizations, such as trade associations, to become approved accreditors.

2. Accreditation Process

Proposed § 111.103(d) and (e) pertain to the administration of the accreditation process, including the responsibilities of CBP-selected accreditors. Proposed § 111.103(d) reflects that CBP-selected accreditors will administer the accreditation of training or educational activities offered by an entity other than a U.S. Government agency, including the special allowance for instructors, discussion leaders, and speakers, by reviewing and approving or denying training or educational activities for continuing education credit. The accreditation process may vary slightly among CBP-selected accreditors (*e.g.,* fees, timeframe for the review and issuance of an accreditation decision, address to which paper-based accreditation requests must be submitted, and the documents that must be submitted as part of the accreditation request); however, each accreditor will be required to administer the accreditation process within the bounds of a defined set of parameters. These parameters will be defined as part of the RFP. For example, CBP is expecting that, as a result of this process, CBP-selected accreditors will be required to: (1) Provide an electronic means for a content provider to submit the details of an activity under consideration; (2) state the average or typical processing time for an accreditation request; and (3) clearly state any charges for the review and approval or denial of an accreditation request.

Although the accreditation process will be defined in more detail as part of the selection process, paragraphs (d) and (e) of proposed § 111.103 contain two requirements. First, in order to ensure that qualifying continuing broker education programs present educational content that is current and relevant, proposed § 111.103(d) provides that an accreditor's approval of a training or educational activity for continuing education credit is only valid for one year, but can be renewed through any CBP-selected accreditor. As CBP's proposal does not require individual brokers to complete a specific number of hours of continuing education on specific subject matter areas, CBP has chosen to propose to limit the validity of accreditations to one year. CBP believes that this limitation would ensure that content providers regularly update educational content, and, thereby, ensure that qualifying continuing broker education offers educational content that is current and relevant. Second, while a CBP-selected accreditor could approve a training or educational activity offered by one of its officials or members for continuing education credit, proposed § 111.103(e) provides a CBP-selected accreditor may not approve its own trainings or educational activities for continuing education credit. This will require CBP-selected accreditors who are also content providers to seek another CBP-selected accreditor's approval in order for educational content to be eligible for continuing education credit. CBP is proposing this limitation to curb the risk of conflicts of interest and self-dealings.

In order to promote transparency and the accreditors' compliance with their contractual obligations, CBP also intends to provide content providers and instructors, discussion leaders, and speakers seeking to claim continuing education credits under the special allowance with an opportunity to submit complaints and comments to the Office of Trade at the Headquarters of U.S. Customs and Border Protection, Attn: Broker Management Branch, electronically. CBP intends to publish additional information on how to submit complaints and comments concerning specific CBP-selected

accreditors, including the email address to which such electronic correspondences should be submitted, on its website. CBP plans to request that content providers (and instructors, discussion leaders, and speakers seeking to claim continuing education credits under the special allowance) who submit a complaint pertaining to the denial of a specific accreditation adhere to the following procedures. First, the content provider (and instructors, discussion leaders, and speakers seeking to claim continuing education credits under the special allowance) should contact the CBP-selected accreditor to request a detailed explanation as to the denial of the accreditation request. Second, if following the receipt of the detailed explanation, the content provider (and instructors, discussion leaders, and speakers seeking to claim continuing education credits under the special allowance) continues to believe that the denial was in error, the content provider should submit a complaint to CBP, including (1) a copy of all materials that were submitted to the accreditor for consideration, (2) any materials received from the accreditor that explain why the activity was rejected, and (3) a detailed explanation as to why the content provider believes the denial decision to be erroneous.

In order to ensure the successful implementation of the proposed continuing education requirement, CBP will also welcome any other type of feedback, such as feedback on accreditor performance and customer experience, positive interactions, and areas for improvement. CBP plans to compile and share such feedback during the sessions that CBP intends to hold with the accreditors on a periodic basis.

F. Timeframe for the Implementation of the Proposed Changes

This NPRM provides for a public comment period of 60 days. Upon the review of the comments and further consideration, CBP will prepare a final rule. The final rule will adopt the current proposal as final, with or without changes based on consideration of the public comments, and will provide the date on which the changes will become effective. In addition to the 30-day delayed effective date required under the Administrative Procedure Act (5 U.S.C. 553(c)), CBP anticipates that there will be an additional delay between the publication of the final rule and the effective date to allow for proper implementation of the continuing education framework.

As CBP's proposal requires some training and educational activities to be approved for continuing education credit by a CBP-selected accreditor, a delayed effective date will be needed in order to permit for sufficient time for the selection of qualified accreditors, for CBP-selected accreditors to set up their processes for reviewing accreditation requests, and for content providers to obtain accreditation for their training or educational activities. CBP will ensure that there will be adequate time for compliance by individual brokers if the proposed rule is adopted. For example, in addition to a delayed effective date, CBP may also select an effective date for the final rule that coincides with the beginning of a new triennial period or prorate the number of continuing education credits individual brokers must complete by the end of the triennial period during which the final rule becomes effective.

V. Statutory and Regulatory Requirements

A. Executive Orders 12866 and 13563

Executive Orders 13563 and 12866 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 (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget (OMB) has not reviewed this regulation. CBP has prepared the following analysis to help inform stakeholders of the impacts of this proposed rule.

1. Purpose of Rule

The proposed rule, if implemented, would require active [16] individual customs broker license holders (brokers) to complete 36 hours of continuing education every three years. A continuing education requirement would increase the knowledge base from which brokers work, educate them on changing customs requirements, regulations, and laws, and reduce the number of errors in filings and resultant penalties. CBP believes that requiring continuing education would enhance the credibility and value of an individual customs broker license and improve a broker's skills, performance, and productivity. Furthermore, CBP believes that mandating continuing education would increase the quality of service for brokers' clients and importers' compliance with customs laws, which would protect the revenue of the United States and aid in maintaining a high standard of professionalism in the customs broker community.

2. Background

On October 28, 2020, CBP published an ANPRM, entitled ''Continuing Education for Licensed Customs Brokers'', in the **Federal Register** (85 FR 68260). The ANPRM presented a basic outline for a continuing education requirement for licensed customs brokers and posed questions pertaining to the potential costs and benefits of such a requirement. Some of the public comments that CBP received in response to the ANPRM addressed the questions pertaining to the potential costs and benefits of such a requirement, although very few contained specific information or data. Any information that was provided on these issues was taken into account in formulating this analysis. In this NPRM, CBP is proposing a continuing education requirement for individual brokers.

i. Customs Brokers

A customs broker assists clients with the importation of goods into the United States, and also with the filing of drawback claims. Customs brokers can be individuals, partnerships, associations, or corporations and must be licensed by CBP. Brokers are responsible for helping clients to meet all relevant requirements for importing and submitting drawback claims, submitting information and payments to CBP on their client's behalf, and exercising responsible supervision and control over their employees and customs business.[17] Only licensed customs brokers may perform customs business.[18] Brokers may have expertise

[16] The term ''active'' refers to a license that has not been suspended.

[17] For more details on responsible supervision and control, see 19 U.S.C. 1641(b)(4), as well as 19 CFR 111.1 and 111.28.

[18] Customs business is defined as: those activities involving transactions with U.S. Customs and Border Protection concerning the entry and admissibility of merchandise, its classification and valuation, the payment of duties, taxes, or other charges assessed or collected by U.S. Customs and Border Protection upon merchandise by reason of its importation, or the refund, rebate, or drawback thereof. It also includes the preparation of documents or forms in any format and the electronic transmission of documents, invoices, bills, or parts thereof, intended to be filed with U.S. Customs and Border Protection in furtherance of such activities, whether or not signed or filed by the preparer, or activities relating to such preparation,

Continued

in any number of trade-related areas, including entry, admissibility, classification, valuation, and duty rates for imported goods. Some brokers specialize in a specific area of customs business, like drawback or valuation, while others are more general practitioners. As of 2021, there are 13,822 active individual brokers in the United States.[19]

To become a licensed customs broker, an eligible individual[20] must pass the Customs Broker License Examination, submit a broker license application and appropriate fees to CBP, and be approved by CBP.[21] Once applicants have passed the broker exam, they may apply for an individual, corporate, partnership, or association license. To maintain the license, the individual broker or the licensed entity (for corporations, partnership, or associations) must submit a triennial report and requisite fees. The triennial report and fees are due on February 28, every three years, since 1985.[22] Once an individual has been approved as a licensed customs broker, the primary ongoing requirement for maintaining the license under current regulations is the submission of the triennial report and appropriate fee in 3-year cycles. Given the established 3-year cycle of triennial reporting, CBP employs a 6-year period of analysis to calculate costs and benefits that result from this proposed rule, accounting for two triennial cycles.

A broker license may be suspended or revoked, or a monetary penalty assessed, for several violations ranging from falsifying information on the license application to willfully and intentionally deceiving, misleading, or threating a client.[23] CBP generally assesses monetary penalties for less serious infractions, such as the incorrect filing of entry forms or the misclassification of goods. However, the majority of civil monetary penalties assessed against brokers for violations of 19 U.S.C. 1641 involve egregious violations or the failure to take satisfactory corrective actions following written notice and a reasonable opportunity to remedy the deficiency as the penalties process provides noncompliant brokers with several opportunities to avoid or mitigate penalty liability.[24] Monetary penalties may not exceed $30,000 per violation and averaged $22,697 from 2017–2020.[25]

In the fiscal years from 2017 to 2020, CBP assessed an average of 66 penalties to brokers per year.[26] However, in FY 2017 and FY 2018, CBP assessed 20 and 21 penalties, respectively, while in FY 2019 and FY 2020, CBP assessed over 100 penalties each year (see Table 1). The significant increase in penalties from 2018 to 2019 and into 2020 is likely due to rapid changes in the international trade environment in those years. During that time, CBP began enforcing several significant changes in the realm of international trade, including new antidumping and countervailing duties (AD/CVD) and the tariffs imposed by the Trump Administration under section 201 of the Trade Act of 1974 (19 U.S.C. 2251), as amended, section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as amended, and sections 301 through 310 of the Trade Act of 1974 (19 U.S.C. 2411 *et seq.*), as amended.[27] These changes affected a significant number of imported goods. CBP provided many opportunities for individual brokers to learn about the changes, including webinars, Question and Answer sessions, public forums, and **Federal Register** notices. External organizations, like regional broker associations, also provided information regarding these changes to the customs laws, which would have led to greater understanding for individual brokers.

Although CBP sought information in the ANPRM on the number of companies employing brokers who already complete continuing education, CBP did not receive enough specific information to estimate the proportion of companies already providing ongoing training. However, based on information gathered via self-reporting by individual brokers, CBP is aware of about 300 companies that employ at least one broker who holds an industry certification that requires annual continuing education.[28] In the fiscal years from 2017 to 2019, those companies were responsible for 54 percent of the entries but only 10 percent of the penalties.[29] Overall, these 300 companies filed 73,906,967 of 136,466,361 filed entries between 2017 and 2020, but only account for 26 of 267 total penalties assessed in that period.[30] For companies outside of this group, CBP does not know how much continuing education is currently taken.

but does not include the mere electronic transmission of data received for transmission to CBP. *See* 19 U.S.C. 1641(a)(2).

[19] A customs broker may voluntarily suspend his or her license for a number of reasons and may re-activate the license at a later time. A broker's license may also be suspended as part of a penalty. For more information, see 19 CFR 111.52.

[20] To be eligible, an individual must be a United States citizen at least 21 years of age, in possession of good moral character, and not be an employee of the U.S. Government. For more information, see U.S. Customs and Border Protection, *Becoming a Customs Broker* (Dec. 12, 2018), *available at https://www.cbp.gov/trade/programs-administration/customs-brokers/becoming-customs-broker.*

[21] To be approved, a broker who has passed the broker exam must also pass an investigation of his or her relevant background. *See* section III.B. of this NPRM.

[22] 19 CFR 111.30(d). For more information on the triennial report, see U.S. Customs and Border Protection, *2021 Customs Broker Triennial Status Report FAQs* (Feb. 26, 2021), *available at https://help.cbp.gov/s/article/Article-1711?language=en_US.*

[23] *See, e.g.,* 19 U.S.C. 1641(d)(1) and (g)(2).

[24] In the case of non-egregious violations, CBP will first attempt to work with the broker through the informed compliance process of communication and education. *See* U.S. Customs and Border Protection, *Electronic Invoice Program (EIP) and Remote Location Filing (RLF) Handbook* (May 2013), p. 22, *available at https://www.cbp.gov/sites/default/files/assets/documents/2016-Dec/Revised_eip_rlf_handbook_12-15_16.pdf.* This is an attempt to improve the broker's performance, and precedes the issuance of a pre-penalty notice, which is a written notice that advises the broker of the allegations or complaints against the broker. *See id.;* 19 CFR 111.92(a). If this process fails to remedy the deficiencies, or in case of egregious violations, CBP will issue a pre-penalty notice to the broker, which, *inter alia,* explains that the broker has the right to respond to the allegations or complaints. *See* 19 CFR 111.92(a). If the broker files a timely response to the pre-penalty notice, CBP will either cancel the case, issue a penalty notice in an amount lower than that provided in the pre-penalty notice, or issue a penalty notice in the same amount as the pre-penalty notice. *See* 19 CFR 111.92(b). Upon the issuance of the penalty notice, the broker is afforded the opportunity to file a petition for relief in accordance with the provisions of 19 CFR part 171, which may result in the cancellation or mitigation of the penalty, and subsequently a supplemental petition for relief. *See* 19 CFR 111.93 and 111.95.

[25] 19 U.S.C. 1641(d)(2)(B). Penalty information comes from CBP's Seized Currency and Asset Tracking System (SEACATS). Although the average value of assessed penalty is $22,697, CBP allows brokers to mitigate penalties, such that the amount collected is often significantly less, averaging $2,664 from 2017–2020.

[26] SEACATS.

[27] Trade remedies implemented by CBP include Section 201 trade remedies on solar cells and panels, and washing machines and parts; Section 232 trade remedies on aluminum and steel; Section 232 trade remedies on derivatives; Section 301 trade remedies to be assessed on certain goods from China; and Section 301 trade remedies to enforce U.S. rights in the large civil aircraft dispute before the World Trade Organization. *See* U.S. Customs and Border Protection, *Trade Remedies, available at https://www.cbp.gov/trade/programs-administration/trade-remedies* (last visited on May 11, 2021).

[28] Information was provided by the National Customs Broker and Forwarders Association of America (NCBFAA). Nine companies employ at least 48 brokers certified by programs provided by the NCBFAA's Education Institute (NEI), and often employ more. An additional 292 companies employing at least one broker with an NEI certification were identified via a survey of NEI's students.

[29] Significant at the 99 percent confidence level.

[30] Entry data was pulled from ACE, and penalty data from SEACATS.

TABLE 1—ANNUAL PENALTIES ASSESSED BY CBP

FY	Number of penalties
2017	20
2018	21
2019	119
2020	106

ii. Continuing Education

Continuing education refers to the training and learning pursued by professionals outside of the formal education system, usually as part of career development. Many licensed professions have some sort of continuing education requirement for license-holders, including accountants, medical professionals, and teachers.[31] Continuing education is particularly important for professions characterized by continuously changing rules, standards, and norms. Customs and international trade is one such profession. Since 2000, the United States has added two new preferential trade programs and several new free trade agreements, the most recent being the USMCA, which replaced the NAFTA.[32] Additionally, the logistical aspects of customs have changed significantly over time. For example, CBP introduced the single window, enabling most CBP forms to be submitted electronically through the Automated Commercial Environment (ACE), which was fully implemented in 2016, with added functionalities being deployed on an ongoing basis.

There have been several other significant changes to the customs environment, including the implementation of TFTEA, changes in duty rates and tariffs, and the modernization of the drawback requirements.[33] Customs brokers must maintain awareness of and adapt to these changes to provide quality service to clients. However, aside from the broker exam at the beginning of their careers, brokers do not currently have any requirements ensuring they maintain up-to-date knowledge of customs rules, regulations, and practices. As stated above, CBP believes that the vigorous pace and expanding scope of international trade require a more stringent continuing education framework for individual brokers who provide guidance to importers and drawback claimants.

The effects of continuing education programs are not easily measured and not often the subject of research.[34] Some studies show that various licensed professions do see a mild increase in positive perception of their industry, performance, and professionalism after the implementation of continuing education requirements.[35] Studies have also demonstrated a positive link between continuing education for teachers and student outcomes as well as between continuing medical education and patient outcomes.[36] Additionally, one study found that continuing professional education was correlated to an improvement in financial outcomes for accounting firms, particularly large firms.[37] Finally, a study of IRS-certified tax preparers found that mandatory continuing education was potentially linked to reduced civil penalties, a decrease in non-compliance, and increased accuracy of tax returns.[38]

Under the terms of the proposed rule, individual brokers would be required to complete 36 hours of accredited continuing education over each 3-year reporting period. Qualifying activities would include attending or presenting at events, such as courses, seminars, symposia, and conventions.[39] Brokers would be required to self-attest to the completion of the required continuing education on each triennial report and maintain records consisting of certain documentation received from the provider or host of the qualifying continuing broker education, if such documentation was made available to the broker, and containing information pertaining to the dates, titles, providers, credit hours earned, and location (if applicable) for each training. The records can be in any format (*i.e.,* electronically or on paper), and the proposed regulations provide CBP with authority to conduct a compliance audit and to request such records for a period of three years following the submission of the status report.

iii. Accreditation

To ensure the quality and relevance of continuing education offerings, they are often accredited by a leading body within the field in question. For example, the American Medical Association (AMA) is accredited to provide training by the Accreditation Council for Continuing Medical Education.[40] An accreditor is responsible for reviewing course content and determining the number of credits or hours to be granted for each course.

Under the proposed rule, after an application process (using the RFP, as described above), CBP would designate entities outside of CBP to act as accreditors for customs broker continuing education. Every three years, CBP would release an RFP soliciting applications to become an accreditor for the customs broker continuing education program. Every three years following the first cycle, existing accreditors would also apply for renewal. To apply, potential and existing accreditors would submit an application to CBP detailing their standards for accreditation, quality control practices, application process, and other information. A panel of CBP experts would convene to review and approve or deny applications. Once approved, accreditors could begin accepting submissions from courses or companies seeking accreditation. Note that training or educational activities offered by U.S. Government agencies, including CBP, automatically qualify for

[31] The number of hours of continuing education required for many professions varies by state as the state is the licensing authority.

[32] In October 2000, the United States implemented the Caribbean Basin Trade Partnership Act, which will expire in 2030 (*https://www.cbp.gov/trade/priority-issues/trade-agreements/special-trade-legislation/caribbean-basin-initiative/cbtpa*). The African Growth and Opportunity Act was also enacted in 2000 (*https://ustr.gov/issue-areas/trade-development/preference-programs/african-growth-and-opportunity-act-agoa*). *See https://www.state.gov/trade-agreements/outcomes-of-current-u-s-trade-agreements/* for a list of free trade agreements currently in force.

[33] *See* section III.C. of this NPRM.

[34] ''Evaluation of Current Customs Broker Continuing Education Practices and Literature Review of Continuing Education in Other Professions.'' Report for CBP prepared by International Economics, Inc. (IEc) on June 30, 2014. This document is included in the docket for this NPRM, which is posted on *Regulations.gov*.

[35] *See* Bradley, S., Drapeau, M. and DeStefano, J. (2012), The relationship between continuing education and perceived competence, professional support, and professional value among clinical psychologists. J. Contin. Educ. Health Prof., 32: 31–38; O'Leary, P. F., Quinlan, T. J., & Richards, R. L. (2011). Insurance Professionals' Perceptions of Continuing Education Requirements. Journal of Insurance Regulation, 30, 101–117; and Wessels, S. (2007). Accountants' Perceptions of the Effectiveness of Mandatory Continuing Professional Education. Accounting Education, 16(4), 365–378.

[36] Darling-Hammond, L., Hyler, M.E., and Gardner, M. (2017). Effective Teacher Professional Development. Learning Policy Institute; Cervero, R. M., & Gaines, J.K. (2014). Effectiveness of continuing medical education: updated synthesis of systematic reviews. Accreditation Council for Continuing Medical Education.

[37] Chen, Y.-S., Chang, B.-G., & Lee, C.-C. (2008). The association between continuing professional education and financial performance of public accounting firms. International Journal of Human Resource Management, 19(9), 1720–1737.

[38] Diehl, K. A. (2015). Does Requiring Registration, Testing, and Continuing Professional Education for Paid Tax Preparers Improve the Compliance and Accuracy of Tax Returns?—US Results. Journal of Business & Accounting, 8(1), 138–147.

[39] *See* proposed 19 CFR 111.103(a).

[40] *See* American Medical Association, *About the AMA's CME Accreditation, available at https://edhub.ama-assn.org/pages/ama-cme* (last accessed on May 11, 2021).

continuing education credit, without the approval by a CBP-selected accreditor.[41]

iv. Performance Improvement

Once brokers have passed the broker exam, thereby proving their basic knowledge and competency to perform the duties of a licensed customs broker at the time of the exam, they are free to practice in perpetuity unless the license is suspended or revoked. Statute dictates that while practicing under the auspices of his or her broker license, a customs broker must maintain responsible supervision and control.[42] CBP's regulations likewise place additional legal obligations upon customs brokers, including, but not limited to, the requirement for exercising due diligence in making financial settlements, answering correspondence, and preparing or assisting in the preparation and filing of information relating to customs business.[43] Staying current on developments in customs law is needed for customs brokers to comply with their legal obligations, but presently there are no standards for how much continuing education is needed.

Under baseline conditions, meaning the world as it is now, CBP does not require brokers to complete any additional training or prove their ongoing knowledge. The broker exam only attests knowledge of customs and related laws that are in place at the time of the exam. While the exam ensures that brokers have a solid base level of knowledge when they begin practicing, there is no requirement that they keep up the knowledge, and evidence suggests that as more time passes since brokers took their exam, the more errors they make. Brokers who were assessed penalties by CBP between 2017 and 2020 have held their individual broker license for, on average, 37 years. In contrast, the average individual broker license is 24 years old. This suggests that as more time passes since the passing of the customs broker exam, more errors are made. Furthermore, the exam does not test for any of the requirements of the more than 40 PGAs involved in regulating imports. Depending on the brokers' needs, CBP believes that continuing education should also include courses relating to the PGAs' international trade requirements, although there is no minimum requirement for certain subject matters in this proposed rule.

Given the often fast-paced and evolving nature of the international trade environment, CBP believes that a continuing education requirement would help to ensure that brokers remain current with their understanding of international trade laws and continue to expand their knowledge of customs regulations and practices. A more competent and educated customs broker community would also prevent costly errors, potentially saving brokers' clients time and money, as well as relieving CBP from expending valuable audit and penalty assessment and collection resources.

3. Overview of Assessment

The proposed rule would result in costs and benefits for customs brokers, accreditors, providers of continuing education, and CBP. Many of the costs for brokers come in the form of time spent researching, registering for, attending, and reporting trainings. Brokers would also experience some opportunity cost as they forgo time spent on other tasks in favor of fulfilling a continuing education requirement. Accreditors must apply to CBP. Though CBP would not charge a fee, the accreditors would need to spend time in creating their applications. Similarly, providers of continuing education must apply to accreditors to have their coursework certified. Finally, CBP must designate accreditors, and, following the full implementation of the proposed framework, CBP may audit individual brokers for compliance.

The benefits from the proposed rule would be largely qualitative. A continuing education requirement would help to professionalize and improve the reputation of the customs broker community, as well as to improve customer service and outcomes. Quantitatively, continuing education would likely lead to a reduction in errors in documentation and associated penalties assessed by CBP for some infractions and violations. Not only would individual brokers not need to pay the associated penalties, but CBP would save the time of identifying, assessing, and collecting such penalties. Similarly, CBP would likely see a reduction in regulatory audits of individual brokers.

4. Historical and Projected Populations Affected by the Rule

The proposed rule applies to any individual holding an active customs broker license.[44] Brokers who have voluntarily suspended their licenses are not required to complete continuing education until they elect to reactivate their license, at which point the requirements are pro-rated depending upon the timing within the triennial reporting cycle. Brokers who have not held their license for an entire triennial period at the time their first triennial report is due are also exempted from completing training and reporting in their first triennial report, though are bound by the terms of the proposed rule in the following years. As of 2021, there are 13,822 active, individual broker licenses.[45] Because 2021 is a reporting year and triennial reports are due in February, those brokers who receive their licenses in 2021, 2022, and 2023 will only be required to complete continuing education beginning on February 1, 2024, the next reporting year.[46] Similarly, brokers who receive licenses in 2024, 2025, and 2026 would not need to pursue continuing education until after their first report is due in 2027.

CBP approves approximately 600 new licenses per year, although the number of licenses added annually has been decreasing since 2015. *See* Table 2 for a summary of licensing history for the previous six years.

[41] Per proposed § 111.103(a)(1)(i), a training or educational activity offered by a U.S. Government agency other than CBP must be relevant to customs business.

[42] *See* 19 U.S.C. 1641(b)(4).

[43] *See* 19 CFR 111.29(a), and 19 CFR part 111 generally for additional obligations.

[44] Entities holding corporate, association, or partnership licenses must employ at least one individual broker, who would be required to comply with the rule. *See* 19 CFR 111.11(a) and (b).

[45] 2021 is triennial reporting year. The CBP Broker Management Branch anticipates that the number of active, individual customs brokers could decrease by approximately 600–1,000 in May–July of 2021 as brokers choose not to renew or to voluntarily suspend their licenses. This number would be partially offset by new, individual customs brokers applying for licenses after passing the broker exam, which is held bi-annually.

[46] Triennial reports are due in February. Therefore, all those brokers who receive licenses in 2021, 2022, and 2023 will submit their first triennial reports in February of 2024 and would then need to complete 36 hours of training before the triennial report is due in February of 2027.

TABLE 2—LICENSING HISTORY FROM 2015–2020

Year	Total licenses [47]	Corporate licenses	Individual licenses
2015	770	16	754
2016	653	21	632
2017	580	16	564
2018	558	27	531
2019	464	15	449
2020 [48]	187	7	180
Total	3,212	102	3,110

Based on an average rate of decline of 12 percent in the number of individual licenses issued, CBP would likely issue 1,754 new individual licenses over a 6-year period of analysis from 2021–2026 (see Table 3), though not all of those license holders would be required to complete continuing education during the 6-year period of analysis. Each of these new individual license holders would need to comply with the terms of the proposed rule once it is in effect and they have completed their first triennial report. All 13,822 individual brokers active at the time the rule is implemented would be required to complete continuing education from February 1, 2021–February 1, 2024.[49] In 2024, the 1,045 individual brokers who CBP projects would receive licenses from 2021–2023 would need to begin complying with the terms of the proposed rule. Brokers who receive licenses in 2024–2026 would not need to comply with the proposed rule until after their first triennial reporting cycle, which would fall outside of the period of analysis. In total, therefore, CBP estimates that 14,867 brokers would be required to abide by the rule in the six years from 2021 to 2026.

TABLE 3—PROJECTED LICENSES ISSUED FROM 2021–2026

Year	Total licenses issued	Corporate licenses	Individual licenses	New licenses affected by the rule
2021	408	13	394	0
2022	358	12	346	0
2023	315	10	304	0
2024	276	9	267	1,045
2025	243	8	235	0
2026	213	7	206	0
Total	1,812	59	1,754	1,045

* Totals may not sum due to rounding.

Although the majority of active individual brokers would be required to complete continuing education under the proposed rule, feedback from the broker community indicates that many brokers already complete the amount of continuing education that would satisfy this requirement.[50] Many companies that employ brokers provide and require in-house training and continuing education. Both independent brokers and brokers employed by brokerages often attend government-sponsored webinars, as well as trade conferences and symposia, which would qualify as continuing education under the terms of the proposed rule. Many brokers also pursue professional certifications like the National Customs Brokers and Freight Forwarders Association of America's (NCBFAA) Certified Customs Specialist (CCS) and Certified Export Specialist (CES).[51] Under the baseline, or the world as it is now, these brokers likely would be in compliance with the proposed rule and, assuming similar activities if a continuing education requirement is imposed, would not incur new costs under the new requirements, except for new reporting costs.

Overall, CBP estimates that approximately 60 percent of individual brokers already pursue continuing education and would be in compliance with the rule.[52] CBP bases this estimation on several factors. First, the NCBFAA estimates that approximately 4,456 brokers hold a CCS or CES in 2020, representing 29 percent of total

[47] CBP sometimes issues licenses that are later suspended or terminated (either voluntarily or as a penalty). This table includes all licenses issued in these years that remain active as of 2021, as only holders of an active license would need to abide by the terms of the rule.

[48] The number of licenses applied for and issued in 2020 was significantly lower than in previous years due to the effects of the COVID–19 pandemic and related closures and delays. CBP excluded this year from calculations of growth rates due to its anomalous nature. 2021 may also be affected similarly, but CBP cannot predict to what extent.

[49] The exact timing of the requirement will vary depending on when the final rule goes into effect, and the requirement will be prorated based on the time left until the triennial report is due. For the purposes of this analysis, we estimate the costs for the hypothetical period from 2021–2027.

[50] Feedback was provided in the form of public comments on the ANPRM. Additional feedback was provided in various meetings and discussions between CBP personnel and customs brokers, as well as at trade conferences and meetings of the Task Force for Continuing Education for Licensed Customs Brokers, a part of the COAC. *See* II.E. Development of the Proposed Continuing Broker Education Requirement, above.

[51] We included both brokers qualifying as CCS and CES in our analysis as the coursework for both has significant overlap and is relevant to customs business.

[52] CBP requested information about the proportion of individual brokers already complying with the rule in the ANPRM. Although CBP did not receive specific information in the public comments, several commenters said they would be compliant and believed that significant numbers of other brokers would be as well. Many also noted that their companies require their broker employees to complete continuing education.

individual brokers.[53] In order to maintain these professional certifications, these brokers are required to earn 20 continuing education credits per year.[54] Additionally, public comments in response to the ANPRM, as well as discussions between CBP and various broker organizations, indicate that most large businesses employing brokers already provide, and often mandate, internal training and continuing education. Based on data from the U.S. Census Bureau, approximately 61 percent of those employed within the Freight Transportation Arrangement Industry (North American Industry Classification System (NAICS) code 448510) are not employed by small businesses. A small business within the Freight Transportation Arrangement Industry is defined as one whose annual receipts are less than $16.5 million, regardless of the number of employees.[55] Table 4 shows the receipts per firm, in millions of dollars, for firms employing each number of employees.[56] The average firm within Categories 7 and 9 has annual receipts of greater than $16.5 million and is considered a large business. These firms employ 161,463 people, or approximately 61 percent of the total employees in the industry.

TABLE 4—SMALL BUSINESSES IN THE FREIGHT TRANSPORTATION ARRANGEMENT INDUSTRY

Employment size[57]	Number of employees	Preliminary receipts (all firms, $1,000s)[58]	Receipts per firm ($)	Small business?
01: Total	265,192	67,276,572	4,454,222	
02: <5	15,939	6,315,166	708,614	Yes.
03: 5–9	18,025	5,392,992	1,974,732	Yes.
04: 10–19	20,288	5,870,163	3,851,813	Yes.
05: <20	54,252	17,578,321	1,335,029	Yes.
06: 20–99	49,477	13,973,780	10,397,158	Yes.
07: 100–499	44,715	10,886,028	30,493,076	No.
08: <500	148,444	42,438,129	2,854,327	Yes.
09: 500+	116,748	24,838,443	105,247,640	No.

Given the proportion of brokers working for larger businesses, the feedback on the ANPRM indicating high rates of compliance, the proportion of brokers pursing certifications, and input from CBP subject matter experts who frequently interact with the broker community, CBP estimates that approximately 60 percent of individual brokers are already in compliance with the requirements of the proposed rule and would not face new costs, assuming a continuing level of similar activity, aside from recordkeeping and reporting, as a result of the rule's implementation. Based on the likely proportion of brokers already in compliance, CBP estimates that 5,947 affected brokers, or approximately 40 percent, would need to come into compliance with the proposed rule over a 6-year period of analysis (see Table 5). We request comment on our assumption that 60 percent of brokers already spend at least 36 hours per 3-year period on continuing education and that the remaining 40 percent of brokers would need to increase their training by the full 36 hours triennially to meet the proposed requirement.

TABLE 5—PROJECTION OF BROKERS AFFECTED BY THE PROPOSED RULE

Year	Total licenses	Proportion in compliance (%)	Total licensed brokers affected
2021	13,822	60	5,529
2022	13,822	60	5,529
2023	13,822	60	5,529
2024	14,867	60	5,947
2025	14,867	60	5,947
2026	14,867	60	5,947
Total	14,867	.....	5,947

Although individual brokers are the primary party affected by the terms of the proposed rule, the rule would also have an impact on CBP, providers of continuing education, and the bodies who accredit continuing education. Each party would see both costs and benefits under the proposed rule.

[53] Discussion with officials at the NCBFAA on April 5, 2021. This includes brokers renewing their certification in 2020, as well as those becoming certified for the first time. The CCS certification program requires enough hours of continuing education to comply with the terms of the proposed rule and the NCBFAA has expressed interest in becoming an accredited provider.

[54] *See* National Customs Brokers & Forwarders Association of America, Inc., *CES FAQs, available at https://www.ncbfaa.org/Scripts/4Disapi.dll/4DCGI/cms/review.html?Action=CMS_Document&DocID=13806&MenuKey=education* (last accessed on July 2, 2021); National Customs Brokers & Forwarders Association of America, Inc., *CCS FAQs, available at https://www.ncbfaa.org/Scripts/4Disapi.dll/4DCGI/cms/review.html?Action=CMS_Document&DocID=13803&MenuKey=education* (last accessed on July 2, 2021).

[55] Small business size standards are defined in 13 CFR 121.

[56] United States Census Bureau, ''2017 County Business Patterns and 2017 Economic Census,'' Released March 6, 2020, *https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html.* Accessed March 15, 2021.

[57] Note that some of the categories are sums of other categories. For example, Category 8, <500, is a sum of Categories 2, 3, 4, 6, and 7. Thus, Categories 7 and 9 are not consecutive, but represent all firms employing 100 or more people.

[58] The Survey of U.S. Businesses (SUSB) from which this data is taken is conducted in years ending in 2 and 7. Note that finalized results from the 2017 survey are scheduled for release in May of 2021.

5. Costs of the Rule

i. To Brokers

The primary cost to individual brokers upon implementation of the rule would be those costs associated with finding and attending 36 hours of continuing education over a 3-year period. These costs include time spent researching reputable and relevant trainings, travel and incidental expenses to attend in-person events like conferences, and the tuition or fees for the courses themselves. Many brokers might satisfy the continuing education requirement with training supplied by their employers. Other brokers, particularly those self-employed or employed by small businesses, would need to seek external training. For external training, brokers may attend free webinars, seminars, and trade events sponsored by CBP, other government agencies, and various related organizations like local freight forwarder and broker associations.[59] Alternatively, brokers might choose paid trainings, conferences, or symposia, or seek certifications offered by trade organizations or educational institutions.

CBP does not know exactly which option each individual broker is likely to choose. Many brokers already hold certifications, attend webinars, and fulfill internal training requirements, though they may need to increase the number of hours completed to comply with the proposed rule. Therefore, CBP has estimated a range of costs. Some brokers would fulfill their proposed continuing education requirements with only free trainings. Others would follow a medium-cost path by opting for a mix of free, lower-cost, and internal trainings. CBP further assumes that brokers electing the medium-cost path would travel to attend one major conference or symposium in-person per year. Finally, some would meet requirements by completing only paid courses representing the highest-cost offerings. CBP assumes that brokers choosing the higher-cost option would travel to attend an average of two conferences per year.

There are several organizations that provide continuing education for customs brokers, ranging from regional broker associations to national entities, such as the American Association of Exporters and Importers (AAEI). Continuing education that qualifies under the terms of the proposed rule includes webinars, seminars, and trade conferences. The hourly cost of such trainings (excluding free events provided by government agencies and other organizations) usually ranges from around $25 to $70. Fees are often tiered based on membership of the hosting organization. Members of an organization may pay $25 while non-members pay $45. CBP cannot predict which organizations would seek accreditation for their events, although all free webinars and trainings hosted by Federal government agencies would be automatically accredited. Therefore, we assume that the average hourly monetary cost would range from $0.00 (low) to $30 (medium) to $50 (high). This assumption is based on current fees charged for various continuing education certifications, webinars, and trade conferences.[60]

In addition to fees, individual brokers would need to spend some time in researching relevant and accredited trainings. CBP assumes that a broker would spend approximately three hours finding and registering for continuing education during every triennial period. Many individual brokers are members of both local and national organizations that provide continuing education opportunities and would likely be notified of opportunities via newsletters or listservs. Other individual brokers would need to spend some time finding and verifying accreditation for qualifying events. All individual brokers would spend some time registering for events. Based on an average fully-loaded wage rate of $31.27, the process of researching and registering for trainings would cost brokers approximately $2.61 per credit hour.[61]

Many individual brokers also travel to attend trade conferences each year. CBP assumes that those brokers electing the lower-cost options would forgo travel and either attend virtually (paying only the fee) or not attend at all. CBP assumes that brokers in the medium-cost tier would travel to attend one conference each year, while brokers in the high-cost tier would travel to attend two conferences.[62] Tuition and fees for conferences, broken down into an hourly rate, are already accounted for in the average costs of $30–$50 per hour. Traveling to attend a single 3-day conference costs approximately $245 in airfare, $288 for lodging, and $165 for meals and incidentals, for a total of $698 for one conference or $1,396 for two conferences (see Table 6).[63] Spread across 36 hours of training, travel costs account for an additional $19.39 per hour (medium) or $38.78 per hour (high).

[59] For example, the Florida Customs Broker and Forwarders Association offers both paid and free events. Information on CBP-hosted webinars can be found at *https://www.cbp.gov/trade/stakeholder-engagement/webinars.* Many other government agencies also provide webinars on trade-related topics. For example, in 2020, the Food and Drug Administration (FDA) hosted a series of webinars on the importation of medical devices in light of the COVID–19 pandemic. *See https://www.fda.gov/medical-devices/workshops-conferences-medical-devices/webinar-series-respirators-and-other-personal-protective-equipment-ppe-health-care-personnel-use.*

[60] CBP does not have information on the cost for an employer to provide training internally, although such information was requested in the ANPRM. CBP believes the cost for internal training would be closer to that of attending external trainings as a member, since member fees are likely much closer to base cost of provision than non-member fees.

[61] Wage rate source: U.S. Bureau of Labor Statistics. Occupational Employment Statistics, ''May 2019 National Occupational Employment and Wage Estimates, United States.'' Updated March 31, 2020. Available at *https://www.bls.gov/oes/2019/may/oes_nat.htm.* Accessed June 12, 2020; U.S. Bureau of Labor Statistics. Employer Costs for Employee Compensation. Employer Costs for Employee Compensation Historical Listing March 2004–December 2019, ''Table 3. Civilian workers, by occupational group: employer costs per hours worked for employee compensation and costs as a percentage of total compensation, 2004–2019.'' March 2020. Available at *https://www.bls.gov/web/ecec/ececqrtn.pdf.* Accessed June 12, 2020. The wages are in 2019 dollars and CBP assumes an annual growth rate of 0 percent.

[62] Some individual brokers would pay for their travel out of pocket, while other would have their travel expenses covered by their employers.

[63] CBP bases these costs off the average price of a domestic flight in 2019 (flight prices in 2020 were not used due to the disruptions caused by COVID–19 cancellations), and the General Services Administration's per diem cost for lodging and meals and incidentals. Source for flight costs: The Bureau of Transportation Statistics, ''Average Domestic Airline Itinerary Fares,'' *https://www.transtats.bts.gov/AverageFare/.* Accessed April 13, 2021. Source for per diem costs: U.S. General Services Administration, ''Per Diem Rates,'' *https://www.gsa.gov/travel/plan-book/per-diem-rates.* Accessed April 13, 2021.

TABLE 6—TRAVEL AND INCIDENTAL COSTS TO ATTEND IN-PERSON EVENTS

[2021 U.S. dollars]

Cost	General cost	Low	Medium	High
Transportation	$245	0	$245	$490
Hotel	288	0	288	576
Meals & Incidentals	165	0	165	330
Total	698	0	698	1,396

Overall, as a result of the rule, a single broker would likely incur monetary costs ranging from $31.27 (low) to $624 (medium) to $1,097 (high) per year to complete 36 hours of continuing education in a 3-year period. Over a 6-year period of analysis, these costs sum to $188 (low), $3,744 (medium), or $6,580 (high). *See* Table 7 for a summary of these costs.

TABLE 7—ANNUAL COSTS FOR ONE BROKER

[2021 U.S. dollars]

Year	Hours [64]	Low		Medium		High	
		Costs [65]	Total	Costs	Total	Costs	Total
2021	12	$2.61	$31.27	$52	$624	$91	$1,097
2022	12	2.61	31.27	52	624	91	1,097
2023	12	2.61	31.27	52	624	91	1,097
2024	12	2.61	31.27	52	624	91	1,097
2025	12	2.61	31.27	52	624	91	1,097
2026	12	2.61	31.27	52	624	91	1,097
Total	72	15.64	188	312	3,744	548	6,580

* Totals may not sum due to rounding.

There were 13,822 active individual brokers in 2021. CBP estimates that a total of 5,947 would be required to begin to complete continuing education under the terms of the rule in the 6-year period of analysis, based on a current estimated compliance rate of 60 percent (see Historical and Projected Populations Affected by the Rule, above). Therefore, CBP estimates that brokers would incur costs related to searching for training, fees, travel, and incidentals, ranging from $1,076,537 (low) to $21,480,353 (medium) to $37,752,913 (high) over the 6-year period of analysis. *See* Table 8.

TABLE 8—ANNUAL TRAINING COSTS FOR INDIVIDUAL BROKER LICENSE HOLDERS

[2021 U.S. dollars]

Year	Brokers [66]	Low		Medium		High	
		Cost	Total	Cost	Total	Cost	Total
2021	5,529	$31.27	$172,886	$624	$3,449,621	$1,097	$6,062,901
2022	5,529	31.27	172,886	624	3,449,621	1,097	6,062,901
2023	5,529	31.27	172,886	624	3,449,621	1,097	6,062,901
2024	5,947	31.27	185,960	624	3,710,497	1,097	6,521,404
2025	5,947	31.27	185,960	624	3,710,497	1,097	6,521,404
2026	5,947	31.27	185,960	624	3,710,497	1,097	6,521,404
Total	5,947	188	1,076,537	3,744	21,480,353	6,580	37,752,913

* Totals may not sum due to rounding.

[64] Individual brokers may complete whatever number of hours they prefer during each year, so long as it totals 36 hours in 3 years. CBP designates 12 hours per year both for ease of presentation and to account for pro-rating for individual brokers who re-activate their licenses within the triennial period.

[65] Costs include tuition/fees, travel costs, and research time costs for each level.

To create a primary estimate, CBP assumes that approximately one third of individual brokers would elect the lowest cost path, one third would elect the medium-cost path, and one third would elect the highest cost path once the rule is in place. Under these conditions, brokers who begin pursuing continuing education as a result of the rule would face $20,103,267 in costs related to searching for training, fees, travel, and incidentals over the 6-year period of analysis. *See* Table 9.

TABLE 9—PRIMARY ESTIMATE OF COSTS FOR BROKERS

[2021 U.S. dollars]

Year	Total brokers	Brokers choosing each path	Total cost
2021	5,529	1,843	$3,228,469
2022	5,529	1,843	3,228,469
2023	5,529	1,843	3,228,469
2024	5,947	1,982	3,472,620
2025	5,947	1,982	3,472,620
2026	5,947	1,982	3,472,620
Total	5,947	1,982	20,103,267

* Totals may not sum due to rounding.

All individual brokers, including those who already complete continuing education and would not face new costs for research, tuition, and travel, would also be required to store records of their completed continuing education and report their compliance to CBP.[67] Record storage would require maintaining either paper or digital copies of any documentation received from the provider or host of the qualifying continuing broker education and a document of some kind listing the date, title, provider, number of credit hours, and location (if applicable) for each training. To report and certify compliance, individual brokers who file paper-based triennial reports with CBP would include a written statement in the triennial report, and individual brokers who file their triennial reports electronically through the eCBP portal would check a box in the eCBP portal while filing their triennial report electronically. Brokers would further be required to produce their records of compliance if requested by CBP, though CBP would only require brokers to maintain their records for the three years following the submission of the triennial report.[68] CBP estimates that recordkeeping and reporting would take each broker 30 minutes (0.5 hours) per year. After the first triennial reporting period in which brokers self-attest to completing their training, 10 percent of brokers each year would incur the cost of producing records to submit to CBP for a compliance audit, which CBP estimates will take 15 minutes (0.25 hours).[69] Therefore, brokers would see $1,380,538 in new reporting and recordkeeping costs over the 6-year period of analysis. *See* Table 10.

TABLE 10—REPORTING COSTS FOR ALL BROKERS

[2021 U.S. dollars]

Year	Brokers	Time (hours) [70]	Wage	Total
2021	13,822	0.5	$31.27	$216,107
2022	13,822	0.5	31.27	216,107
2023	13,822	0.5	31.27	216,107
2024	14,867	0.5–0.75	31.27	244,072
2025	14,867	0.5–0.75	31.27	244,072
2026	14,867	0.5–0.75	31.27	244,072
Total	14,867	3.0–3.75	.....	1,380,538

* Totals may not sum due to rounding.

To comply with the proposed rule, individual brokers who do not already do so would be required to spend 36 hours over three years completing continuing education in whatever form they choose. Additionally, CBP estimates they would spend three hours per 3-year cycle researching and registering for trainings. Finally, brokers would need to spend about 30–45 minutes (0.5–0.75 hours) on recordkeeping during each cycle. Overall, brokers would need to spend about 40.5 hours over a 3-year period,

[66] Only the 40 percent of brokers who do not already complete continuing education would face these costs. The total number of brokers affected in the final year of analysis (2026) is the same as the number of brokers overall because each year represents the same population with a small amount of growth.

[67] Some brokers would likely face additional time-costs should they fail to complete and/or report their required continuing education and need to take corrective action or reapply for their licenses following revocation (*see* proposed § 111.104(d) for details). However, CBP only reports the costs affected populations would face to maintain compliance with the proposed rule.

[68] Note that many other records must be maintained for five years. The 3-year standard applies only to records of continuing education.

[69] CBP would randomly select 10 percent of individual brokers to audit for compliance each year.

[70] Note that only 10 percent of individual brokers would spend 45 minutes per year, while the remaining 90 percent would spend 30 minutes per year. Furthermore, CBP would only begin audits after the first triennial period during which the rule is in effect.

or 81 hours over a 6-year period of analysis, to comply with the rule.

Some brokers would choose to complete their trainings outside of work hours, while others would complete training as part of their assigned duties. Brokers would also spend time in researching, registering for, and maintaining records of their continuing education, for a total of 12 hours per year of training plus 1.5 to 1.75 hours per year in research and recordkeeping. Based on the average wage rate for brokers of $31.27, the opportunity cost of researching, registering for, attending, and reporting continuing education is approximately $14,547,191 over the 6-year period of analysis.[71] *See* Table 11.

TABLE 11—SUMMARY OF OPPORTUNITY COST FOR BROKERS

[2021 U.S. dollars]

Year	Brokers	Hours	Wage rate	Cost
2021	5,529	13.5	$31.27	$2,333,955
2022	5,529	13.5	31.27	2,333,955
2023	5,529	13.5	31.27	2,333,955
2024	5,947	13.5	31.27	2,515,108
2025	5,947	13.5	31.27	2,515,108
2026	5,947	13.5	31.27	2,515,108
Total	5,947	81	187.62	14,547,191

* Totals may not sum due to rounding.

Total costs for all individual brokers, including tuition and travel expenses for those who must begin continuing education regimens because of the rule as well as opportunity and reporting costs for all brokers, range from $16,452,050 to $53,128,426. The primary estimate, which accounts for one third of brokers choosing each cost tier, comes to $35,478,781 over the 6-year period of analysis. *See* Table 12.

TABLE 12—TOTAL COSTS FOR ALL BROKERS

[2021 U.S. dollars]

Year	Total cost: low estimate	Total cost: medium estimate	Total cost: high estimate	Total cost: primary estimate
2021	$2,636,505	$5,913,241	$8,526,520	$5,692,089
2022	2,636,505	5,913,241	8,526,520	5,692,089
2023	2,636,505	5,913,241	8,526,520	5,692,089
2024	2,847,512	6,372,048	9,182,956	6,134,172
2025	2,847,512	6,372,048	9,182,956	6,134,172
2026	2,847,512	6,372,048	9,182,956	6,134,172
Total	16,452,050	36,855,867	53,128,426	35,478,781

* Totals may not sum due to rounding.

ii. To CBP

To implement the requirements of the proposed rule, CBP would need to designate entities or companies as approved accreditors of customs broker continuing education. To do so, CBP would solicit applications from parties interested in becoming accreditors, or (following the first application cycle) accreditors seeking renewal of their status, by publishing a Request for Proposal (RFP).[72] A panel of CBP experts would evaluate the applications and select the entities approved or renewed as accreditors. CBP estimates that the process of developing and submitting the RFP would take two personnel 10 hours. Application evaluation would take a further 40 hours and would require four CBP personnel. The process of designating accreditors would occur before the continuing education requirements went into effect, to allow accreditors to be ready for the rule's implementation and ensure equal footing for all providers.[73] However, because of uncertainty over timing of the rule's implementation, we assumed that designation of accreditors would occur in the first year of the period of analysis. Regardless of when the rule goes into effect and the designation process occurs, accreditors and CBP would need to complete the process two times in a 6-year period. Overall, designation of accreditors would require six CBP personnel 180 hours total, twice in a 6-year period of analysis, for a cost to CBP of $26,640 (see Table 13).

[71] U.S. Bureau of Labor Statistics. Occupational Employment Statistics, ''May 2019 National Occupational Employment and Wage Estimates, United States.'' Updated March 31, 2020. Available at *https://www.bls.gov/oes/2019/may/oes_nat.htm.* Accessed June 12, 2020; U.S. Bureau of Labor Statistics. Employer Costs for Employee Compensation. Employer Costs for Employee Compensation Historical Listing March 2004–December 2019, ''Table 3. Civilian workers, by occupational group: Employer costs per hours worked for employee compensation and costs as a percentage of total compensation, 2004–2019.'' March 2020. Available at *https://www.bls.gov/web/ecec/ececqrtn.pdf.* Accessed June 12, 2020. The wages are in 2019 dollars and CBP assumes an annual growth rate of 0 percent.

[72] *See* proposed 19 CFR 111.103(c).

[73] *See* section IV.E.1. of this NPRM.

TABLE 13—COSTS TO CBP TO DESIGNATE ACCREDITORS

[2021 U.S. dollars]

Year	Personnel for RFP	Personnel for evaluation	Wage rate	Hours	Total
2021	2	4	$74.00	50	$13,320
2022	0	0	74.00	0	0
2023	0	0	74.00	0	0
2024	2	4	74.00	50	13,320
2025	0	0	74.00	0	0
2026	0	0	74.00	0	0
Total					26,640

* Totals may not sum due to rounding.

CBP's Broker Management Branch (BMB) would also face the costs of auditing for compliance with the continuing education requirement. Although individual brokers would self-attest to their completion of the continuing education requirement with each triennial report, CBP would occasionally conduct compliance audits by randomly selecting a certain subset of brokers for auditing. To start, CBP would select 10 percent of brokers per year, although the audits would only cover the continuing education reported for the most recently completed triennial cycle. A continuing education compliance audit would involve CBP personnel reviewing the reported coursework of the selected broker and potentially working with brokers to identify gaps or higher quality training opportunities. Such an activity would take approximately one hour, on average; therefore, CBP estimates that each compliance audit would cost CBP approximately $74.00. For the first three years of the period of analysis, no compliance audit would take place because brokers would not yet have reported their training at the end of the first triennial cycle. Over the next three years, CBP would select 10 percent of active individual brokers to audit.[74] With about 1,500 compliance audits performed per year, costs to CBP would amount to $330,054 over the 6-year period of analysis. *See* Table 14.

TABLE 14—COMPLIANCE AUDITING COSTS FOR CBP

[2021 U.S. dollars]

Year	Audits	Cost per audit	Total
2021	0	$74	$0
2022	0	74	0
2023	0	74	0
2024	1,487	74	110,018
2025	1,487	74	110,018
2026	1,487	74	110,018
Total	4,460	444	330,054

* Totals may not sum due to rounding.

iii. To Accreditors

Accrediting bodies interested in becoming designated accreditors for customs brokers continuing education under the terms of proposed rule would need to apply to CBP during an open RFP period and then re-apply to confirm their status every three years. Costs to respond to the RFP include only the preparation of the application. Overall, CBP estimates that the preparation of an application to CBP to become an accreditor would take two employees 40 hours, to be completed two times in a 6-year period. Although the application for accreditor status would likely be completed before the proposed rule is officially in effect, because of uncertainty in the timing, we have used the same period of analysis.[75] Regardless of when the rule goes into effect, accreditor-applicants would need to apply twice in a 6-year period. Therefore, CBP estimates that CBP-designated accreditors would incur approximately $11,339 in costs over a 6-year period of analysis. *See* Table 15.

TABLE 15—COSTS TO ACCREDITORS

[2021 U.S. dollars]

Year	Personnel	Wage rate	Hours	Total
2021	2	$70.87	40	$5,670
2022	0	70.87	0	0
2023	0	70.87	0	0

[74] Those individual brokers who have not yet completed a triennial report since taking their broker exam would be exempt from completing continuing education until after their first triennial report and, therefore, would also be exempt from continuing education audits during that time.

[75] When the proposed rule is first implemented, CBP would allow accreditor-applicants time to apply before the requirement is officially in place so that they are able to accredit courses as soon as the rule is in effect, allowing providers equal footing and giving brokers the largest pool of potential training.

TABLE 15—COSTS TO ACCREDITORS—Continued

[2021 U.S. dollars]

Year	Personnel	Wage rate	Hours	Total
2024	2	70.87	40	5,670
2025	0	70.87	0	0
2026	0	70.87	0	0
Total				11,339

* Totals may not sum due to rounding.

iv. To Providers

Providers of continuing education would also face new costs under the terms of the proposed rule. Specifically, providers would need to submit applications to accreditors to have their coursework or events accredited. Officials at the NCBFAA Education Institute estimate that they currently approve approximately 1,000 courses per year. With the proposed rule in place, CBP believes the number of events submitted for accreditation would increase substantially because companies' internal trainings and external offerings would need to be accredited. Therefore, CBP estimated that about 2,000 courses would require accreditation each year. Providers would likely pay a fee and would need to renew their accreditation annually to ensure their coursework remains up to date. The fee for accreditation is likely to vary based on accreditor, but would likely average $25.[76] Overall, CBP estimates that providers of continuing education for customs brokers would face $300,000 of new costs over a 6-year period of analysis. *See* Table 16.

TABLE 16—COSTS TO PROVIDERS

[2021 U.S. dollars]

Year	Courses	Fee	Total
2021	2,000	$25.00	$50,000
2022	2,000	25.00	50,000
2023	2,000	25.00	50,000
2024	2,000	25.00	50,000
2025	2,000	25.00	50,000
2026	2,000	25.00	50,000
Total			300,000

* Totals may not sum due to rounding.

Based on the primary estimate, costs total $36,146,814 over the 6-year period of analysis. Using a three percent discount rate, the annualized total costs are $6,012,425. *See* Table 17 for an annual breakdown and Table 18 for discounting.

TABLE 17—TOTAL COSTS TO ALL PARTIES

[2021 U.S. dollars]

Year	Costs to brokers—primary estimate	Costs to accreditors	Costs to providers	Costs to CBP—accrediting and auditing	Total costs
2021	$5,692,089	$5,670	$50,000	$13,320	$5,761,078
2022	5,692,089	0	50,000	0	5,742,089
2023	5,692,089	0	50,000	0	5,742,089
2024	6,134,172	5,670	50,000	123,338	6,313,179
2025	6,134,172	0	50,000	110,018	6,294,190
2026	6,134,172	0	50,000	110,018	6,294,190
Total	35,478,781	11,339	300,000	356,694	36,146,814

* Totals may not sum due to rounding.

[76] This fee is based on that charged by the NCBFAA. Although CBP sought information in the ANPRM on how much accreditors might charge, CBP did not receive specific information.

TABLE 18—DISCOUNTED TOTAL COSTS

[2021 U.S. dollars]

	3%		7%	
	PV	AV	PV	AV
Costs	$32,570,459	$6,012,425	$28,584,851	$5,996,982

6. Costs Not Estimated in This Analysis

The parties affected by the proposed rule would also face several, mostly minor costs that CBP is unable to quantify. To provide individual brokers who choose to file their triennial report electronically through the eCBP portal the ability to self-attest to their continuing education completion, CBP would need to include a field within the triennial report, which is submitted via the eCBP portal. The programming to include this field does not add significantly to the application development budget as CBP constantly makes small changes to many aspects of CBP's authorized electronic data interchanges.

Additionally, some potential accreditors may face costs related to protesting CBP's initial decisions regarding their proposals to become accreditors.[77] Accreditor-applicants would have the right to protest in accordance with procedures set out in the FAR. CBP expects these costs to be minor and protests to be rare. Brokers' clients may see slight price increases for broker services. As broker costs increase, they may pass some of these costs onto their clients in the form of increased prices. However, CBP believes that the per transaction increase in prices would be so small as to be insignificant.

7. Benefits of the Rule

This proposed rule, if finalized, would have many benefits to brokers, CBP, and the general public. We are able to estimate some of the benefits of the proposed rule, but many others are qualitative in nature. Brokers would benefit from improved reputation and a professionalization of the customs broker community while their clients would benefit from better performance and improved compliance. The continuing broker education requirement would provide importers and drawback claimants with greater assurance that their agents are knowledgeable of customs laws and regulations, familiar with operational processes, and can properly exercise a broker's fiduciary duties. The requirements would also help maintain a measure of consistency across all customs brokers. Providers would benefit from increased prestige due to CBP-approved accreditation. Other benefits of the proposed rule are quantitative.

CBP would benefit from a reduction in regulatory audits of broker compliance. Both CBP and brokers would benefit from fewer errors committed by brokers and fewer penalties assessed by CBP. CBP examined data on broker penalties, regulatory audits, and validation activities between a group of companies who employ one or more individual brokers known to voluntarily hold an industry certification that requires meeting the proposed continuing education requirement and the broader population of brokers (which includes those who voluntarily complete continuing education and those who do not). This group of brokers with continuing education represents about 300 companies, which make up 54 percent of entries filed between 2017 and 2020 and 51 percent of entries filed between 2015 and 2020. CBP found that at the 99 percent confidence level, there is a statistically significant difference between these groups. Those who voluntarily hold this certification and complete continuing education have significantly lower rates of penalties, audits, and validation activities. *See* Table 19.[78] Brokers who are not known to have continuing education are assessed 11 times as many penalties per entry filing, are audited 8 times as often, and have 5 times as many validation activities performed by CBP to investigate discrepancies when compared to companies that are known to employ brokers who voluntarily take continuing education.

TABLE 19—ENFORCEMENT ACTION RATE FOR DIFFERENT GROUPS

Enforcement action	Total	By all other companies (%)	By 300 companies with continuing education (%)	Ratio
Penalty	267	0.00039	0.000035	11 to 1
Regulatory Audit	87	0.000077	0.000011	8 to 1
Validation Activity	311	0.00026	0.000052	5 to 1

* Rates are defined as the number of enforcement actions divided by the number of entries filed.

[77] *See* section IV.E.1. of this NPRM.

[78] Source of data of companies with at least one individual broker with continuing education: Data received from NCBFAA on companies participating in its broker certification program on April 28, 2021. Data on enforcement actions and the number of entries per company was obtained from ACE on April 11, 2021.

Aside from penalties, CBP enforcement often takes the form of a regulatory audit. Regulatory audits usually occur because a CBP Officer or Import Specialist flags unusual or suspicious activity. CBP then performs a regulatory audit of the broker's activity, investigating the potential infraction, as well as the broker's overall compliance with regulations, rules, and CBP guidance. These audits may lead to a settlement agreement in which a penalty is assessed, but they more often lead to discussion between the broker and CBP as to how the broker can improve compliance and performance. With continuing education in place, CBP believes that fewer regulatory audits would be necessary. From 2015 to 2020, CBP performed 84 regulatory audits of broker compliance, for an average of 14 per year.[79] The number of audits holds approximately steady across the 5-year period, so CBP does not believe it likely that the number of audits would grow in the period of analysis. Therefore, CBP projects 84 audits would be performed during the 6-year period of analysis under baseline conditions, or 14 each year. *See* Table 20.

TABLE 20—PROJECTION OF AUDITS AND BROKER SURVEYS UNDER THE BASELINE

Year	Audits
2021	14
2022	14
2023	14
2024	14
2025	14
2026	14
Total	84

CBP estimates that a regulatory audit of broker compliance takes CBP approximately 559 hours, on average. Based on the average wage rate for a CBP Trade and Revenue employee of $74.00 per hour, we estimate the average broker audit costs $41,351. Based on a review of outcomes from the audits completed from 2015–2020, approximately 40 percent would likely have been avoided had a continuing education requirement been in place. CBP believes that, had customs brokers been required to complete continuing education on an individual level, and, therefore, stayed current on the rules and regulations governing customs business, they would have made fewer errors and avoided the audits. Over a 6-year period of analysis under the terms of the rule, CBP would avoid 34 audits, for a cost savings of $1,389,400. *See* Table 21.

TABLE 21—CBP COST SAVINGS FROM REDUCED REGULATORY AUDIT ACTIVITIES

[2021 U.S. Dollars]

Year	Audits avoided	Cost savings per audit	Total savings
2021	6	$41,351	$231,567
2022	6	41,351	231,567
2023	6	41,351	231,567
2024	6	41,351	231,567
2025	6	41,351	231,567
2026	6	41,351	231,567
Total	34	248,107	1,389,400

* Totals may not sum due to rounding.

The number of penalties assessed between 2017 and 2020 grew significantly. In 2017, CBP assessed 20 penalties while in 2020, that number jumped to 119 (see Table 1, above). Between 2017 and 2020, the number of penalties issued increased with a compound annual growth rate (CAGR) of 52 percent. The jump in penalties between 2019 and 2020 is likely attributable to changes in the AD/CVD environment, and CBP does not believe that penalties per year would continue to grow at the same rate. Based on trends before and after the jump, we do not believe that the number of penalties assessed per year would consistently grow at any meaningful rate. Based on a 0 percent growth rate, CBP estimates that over the 6-year period of analysis from 2021 to 2026, CBP would assess 675 penalties. *See* Table 22 for an annual count.

TABLE 22—PROJECTION OF PENALTIES ASSESSED FROM 2021–2026 UNDER THE BASELINE

Year	Penalties
2021	113
2022	113
2023	113
2024	113
2025	113
2026	113
Total	675

When CBP assesses a penalty against a broker for a customs violation, CBP incurs the cost of detecting and investigating the violation, as well as determining the appropriate monetary fine and handling any appeals from the broker. The broker must pay the penalty, which is capped at $30,000 by statute. CBP also works with brokers against whom a fine has been assessed to mitigate the penalty, resulting in the collection of amounts that are usually significantly lower. From 2017–2020, monetary penalties collected from individual brokers averaged $2,644. CBP estimates that the entire process of assessing a penalty against a broker, from detection to working through mitigation, costs CBP approximately $4,440 per penalty.[80] With the proposed rule implemented, CBP believes that brokers would commit approximately 20 percent fewer penalizable violations.[81] As a result, brokers would save approximately $359,640 in fines

[79] Data provided by CBP's Regulatory Audit and Agency Advisory Services Directorate on April 11, 2021.

[80] CBP bases this estimate on an average of 60 hours worked per penalty at an average wage of $74.00 per hour for a CBP Trade and Revenue employee. CBP bases this wage on the FY 2020 salary and benefits of the national average of CBP Trade and Revenue positions, which is equal to a GS–13, Step 5. Source: Email correspondence with CBP's Office of Finance on July 2, 2020.

[81] Approximately 20 percent of the penalties assessed between 2017 and 2020 were for infractions that CBP believes would have been avoided had the broker been required to complete continuing education. The majority of the remaining penalties were for late filing. Penalty data is taken from SEACATS.

avoided, while CBP would save approximately $599,400 in processing costs.[82] *See* Tables 23 and 24.

TABLE 23—PENALTIES AVOIDED BY BROKERS

[2021 U.S. Dollars]

Year	Penalties avoided	Fines avoided per penalty	Total
2021	23	$2,664	$59,940
2022	23	2,664	59,940
2023	23	2,664	59,940
2024	23	2,664	59,940
2025	23	2,664	59,940
2026	23	2,664	59,940
Total	135	15,984	359,640

* Totals may not sum due to rounding.

TABLE 24—COSTS AVOIDED BY CBP

[2021 U.S. Dollars]

Year	Penalties avoided	Cost savings per penalty	Total
2021	23	$4,440	$99,900
2022	23	4,440	99,900
2023	23	4,440	99,900
2024	23	4,440	99,900
2025	23	4,440	99,900
2026	23	4,440	99,900
Total	135	26,640	599,400

* Totals may not sum due to rounding.

8. Net Impact of the Rule

The proposed rule would lead to costs for brokers in the form of tuition, travel expenses, opportunity cost, and time spent researching, registering for, keeping records of, and reporting continuing education. CBP would face the costs of designating accreditors and auditing broker compliance. Accreditors would incur the costs of responding to a CBP-issued RFP, and education providers would incur the costs of drafting applications and fees charged by the accreditors for reviewing their accreditation requests. CBP would also see cost savings (benefits) from avoided penalty assessment and avoided regulatory audits. CBP has found that companies employing one or more brokers who complete continuing education are statistically less likely to face enforcement actions. Over a 6-year period of analysis, the primary estimate of the net costs totals $34,158,014 (see Table 25). Using a discount rate of three percent, annualized costs total $5,680,959 (see Table 26).

TABLE 25—PRIMARY ESTIMATE OF NET COSTS

[2021 U.S. Dollars]

Year	Benefits	Costs	Net costs[83]
2021	$331,467	$5,761,078	$5,429,611
2022	331,467	5,742,089	5,410,622
2023	331,467	5,742,089	5,410,622
2024	331,467	6,313,179	5,981,713
2025	331,467	6,294,190	5,962,723
2026	331,467	6,294,190	5,962,723
Total	1,988,800	36,146,814	34,158,014

[82] Penalties are a transfer payment from the broker to CBP that do not affect total resources available to society. Accordingly, CBP does not include penalties or penalties avoided in the final accounting of costs and benefits this rule. In addition, penalties are an enforcement tool that are intended to bring a noncompliant party in line with existing requirements. Any costs and benefits that result from compliance with the underlying requirement are included in the analysis, but not the enforcement mechanism. In the same way, if a rule results in the seizure of illegal merchandise, CBP does not include the cost of the lost merchandise to the importers.

[83] Note that we only include costs of remaining compliant with the proposed rule in the net costs. Similarly, we do not include penalties avoided in the final accounting of benefits.

TABLE 26—PRIMARY ESTIMATE OF NET PRESENT AND ANNUALIZED COSTS

[2021 U.S. Dollars]

	3%		7%	
	PV	AV	PV	AV
Savings	$1,795,619	$331,467	$1,579,949	$331,467
Costs	32,570,459	6,012,425	28,584,851	5,996,982
Net Costs	30,774,841	5,680,959	27,004,902	5,665,515

CBP presents four estimates of the net costs depending on the cost of training pursued by each individual broker. The low-cost path assumes the broker would pursue only free trainings and forgo travel. In the medium-cost path, brokers would pursue a mix of free and paid trainings and travel to a single conference or in-person event per year. In the high-cost path, brokers would pursue all paid trainings and travel to two in-person events or conferences per year. The primary estimate assumes that one third of brokers would choose each path. Overall, the quantifiable effects of the proposed rule result in a net, annualized cost ranging from $2,514,956 to $8,617,817, using a 3 percent discount rate over the 6-year period of analysis. A summary of net costs under all four estimates presented in the analysis can be found in Table 27.

TABLE 27—SUMMARY OF NET COSTS

[2021 U.S. Dollars]

Estimate	Value	3%	7%
Primary	Net PV	$30,774,841	$27,004,902
	Net AV	5,680,959	5,665,515
Low	Net PV	13,624,000	11,945,324
	Net AV	2,514,956	2,506,079
Medium	Net PV	32,016,156	28,094,859
	Net AV	5,910,102	5,894,183
High	Net PV	46,684,367	40,974,522
	Net AV	8,617,817	8,596,283

As stated before, many benefits of the proposed rule are qualitative. Brokers would benefit from improved reputation and a professionalization of the customs broker community while their clients would benefit from better performance, less non-compliance, and improved outcomes. Providers would benefit from increased prestige due to CBP-approved accreditation. CBP believes that the combination of quantified benefits and unquantified benefits exceed the costs of this rule. We request comment on this conclusion.

9. Analysis of Alternatives

Alternative 1: 72 hours every three years.

Alternative 1 is the same as the chosen alternative except that the continuing education requirement would be raised to 72 hours each triennial cycle instead of 36 hours. This alternative is modeled on the Internal Revenue Service's (IRS) Enrolled Agent program, which requires 72 hours of continuing education every three years.[84] An enrolled agent is an individual who may represent clients in matters before the IRS and, like a licensed customs broker, must pass a rigorous examination to prove his or her knowledge and competence, making it a reasonable analog to the proposed CBP program. Once the agent has passed the exam, he or she has unlimited practice rights, providing he or she completes the requisite continuing education.

CBP has determined that 72 hours every three years would be inappropriate for individual brokers. Were CBP to mandate 72 hours of continuing education every three years, brokers who already voluntarily pursue continuing education would need to increase the amount of training they complete, often by 100 percent. Costs incurred by both brokers who do not already pursue continuing education and those who do would be much greater. Such a requirement would be too onerous, particularly for small businesses, which make up a significant proportion (approximately 39 percent) of the employers of licensed customs brokers. CBP estimates that such a requirement would cost brokers up to $113,258,739 over a 6-year period of analysis, or about $7,618 per broker. *See* Table 28.

TABLE 28—BROKER COSTS UNDER A 72-HOUR CONTINUING EDUCATION REQUIREMENT

[2021 U.S. Dollars]

Year	Brokers	Low		Medium		High	
		Cost	Total	Cost	Total	Cost	Total
2021	13,822	$62.54	$518,657	$1,248	$10,348,863	$2,193	$18,188,702
2022	13,822	62.54	518,657	1,248	10,348,863	2,193	18,188,702

[84] *See* Internal Revenue Service, Enrolled Agent Information (Apr. 6, 2021), *available at https://www.irs.gov/tax-professionals/enrolled-agents/enrolled-agent-information.*

TABLE 28—BROKER COSTS UNDER A 72-HOUR CONTINUING EDUCATION REQUIREMENT—Continued

[2021 U.S. Dollars]

Year	Brokers	Low		Medium		High	
		Cost	Total	Cost	Total	Cost	Total
2023	13,822	62.54	518,657	1,248	10,348,863	2,193	18,188,702
2024	14,867	62.54	557,880	1,248	11,131,490	2,193	19,564,211
2025	14,867	62.54	557,880	1,248	11,131,490	2,193	19,564,211
2026	14,867	62.54	557,880	1,248	11,131,490	2,193	19,564,211
Total	14,867	375	3,229,610	7,487	64,441,059	13,159	113,258,739

* Totals may not sum due to rounding.

Alternative 2: 36 hours every three years.

Alternative 2 is the chosen alternative.

Alternative 3: CBP list of brokers voluntarily meeting continuing education standards.

Under Alternative 3, instead of mandating any kind of continuing education program, CBP would release annually a list of brokerages or companies employing brokers who voluntarily provide continuing education to their broker employees. As with Alternative 1, qualifying events would include internal training, government-sponsored webinars, trade conferences and events, and other activities. CBP would draft this list each year by requesting that companies report whether they provide a continuing education program. CBP might request details from the company to ensure the training provided meets a certain threshold for quality and relevance.

Under baseline conditions, CBP estimates that about 60 percent of brokers already complete continuing education on a voluntary basis. CBP does not believe that publishing a list of brokerages that provide continuing education would induce the remaining 40 percent of brokers to pursue continuing education, though some brokers might do so. Under Alternative 3, those individual brokers who already complete ongoing training would continue to do so, while many of those brokers who do not, would not, absent a mandate, be likely to change. CBP estimates that an additional five percent of brokers might begin a continuing education program in order to be included on CBP's list, representing about 186 additional companies.[85] While fewer brokers would face the costs of tuition, travel, and record-keeping, approximately 743 would face these costs of continuing education over the 6-year period of analysis. Additionally, CBP would incur the costs of composing the list each year and companies employing brokers would face the costs of applying to be included on the list. Assuming two CBP personnel spend about 40 hours each, annually to compose the list, that one person from each company spends about 10 hours compiling and submitting information to CBP annually, and that one third of affected brokers choose each cost path, Alternative 3 results in costs of $5,636,739 over the 6-year period of analysis. *See* Table 29.

TABLE 29—TOTAL COSTS UNDER ALTERNATIVE 3

[2021 U.S. Dollars]

Year	CBP cost	Brokerage costs	Broker costs	Total
2021	$11,840	$267,605	$293,545	$572,990
2022	11,840	267,605	695,303	974,748
2023	11,840	267,605	725,822	1,005,267
2024	11,840	267,605	748,466	1,027,911
2025	11,840	267,605	748,466	1,027,911
2026	11,840	267,605	748,466	1,027,911
Total	71,040	1,605,631	3,960,068	5,636,739

* Totals may not sum due to rounding.

If only 5 percent more brokers elect to begin continuing education under the terms of Alternative 3, fewer non-compliance actions would be avoided. CBP estimates that only an eighth as many penalties and audits would be avoided as compared to Alternative 2. Therefore, CBP and brokers would avoid three penalties and one audit annually, for a total cost savings of $44,955 per year. However, CBP does not typically include avoided penalties in the overall accounting of costs and benefits of a rule. Therefore, over a 6-year period of analysis, Alternative 3 leads to $248,600 in cost savings.

[85] CBP assumes that large companies employing more than 100 people already have a continuing education program. Therefore, those companies that would need to add continuing education in order to be included on CBP's list would likely be small to medium sized businesses, meaning there would be a significant number of them, employing a few brokers each.

TABLE 30—TOTAL SAVINGS UNDER ALTERNATIVE 3

[2021 U.S. Dollars]

Year	Savings for brokers	Savings for CBP	Total savings
2021	$7,493	$41,433	$41,433
2022	7,493	41,433	41,433
2023	7,493	41,433	41,433
2024	7,493	41,433	41,433
2025	7,493	41,433	41,433
2026	7,493	41,433	41,433
Total	44,955	248,600	248,600

* Totals may not sum due to rounding.

One of the primary goals of the proposed rule is to reduce compliance issues, penalties, and regulatory audits, and CBP does not believe that a system based on voluntary reporting would do enough to reach that goal. With only an additional 5 percent of brokers pursuing continuing education, Alternative 3 would not do enough to further professionalize the customs broker community, nor would their clients see an appreciable decline in compliance issues. Additionally, such a system would still result in a net cost of about $5.4 million over the 6-year period of analysis. Therefore, CBP believes that Alternative 3 is less preferable than the chosen alternative.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996, requires agencies to assess the impact of regulations on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business concern per the Small Business Act); a small organization (defined as any not-for-profit enterprise which is independently owned and operated and is not dominant in its field); or a small governmental jurisdiction (defined as a locality with fewer than 50,000 people). A small business within the Freight Transportation Arrangement Industry, the industry that employs customs brokers, is defined as one whose annual receipts are less than $16.5 million, regardless of the number of employees.[86] Data from the U.S. Census Bureau shows that approximately 96 percent of businesses in the Transportation Arrangement Industry (NAICS Code 448510) are small businesses (see Table 31). All businesses employing brokers under this NAICS Code are affected by this rule. Additionally, some small businesses may elect to become accreditors or training providers. Therefore, CBP concludes that this rule will affect a substantial number of small entities.

TABLE 31—SMALL BUSINESSES IN THE FREIGHT TRANSPORTATION ARRANGEMENT INDUSTRY[87]

Employment size[88]	Number of employees	Preliminary receipts (all firms, $1,000s)[89]	Receipts per firm ($)	Small business?
01: Total	265,192	$67,276,572	$4,454,222	
02: <5	15,939	6,315,166	708,614	Yes.
03: 5–9	18,025	5,392,992	1,974,732	Yes.
04: 10–19	20,288	5,870,163	3,851,813	Yes.
05: <20	54,252	17,578,321	1,335,029	Yes.
06: 20–99	49,477	13,973,780	10,397,158	Yes.
07: 100–499	44,715	10,886,028	30,493,076	No.
08: <500	148,444	42,438,129	2,854,327	Yes.
09: 500+	116,748	24,838,443	105,247,640	No.

Some small businesses may choose to apply to CBP to become accreditors. Those businesses would face the costs of applying to CBP, the potential costs of any protests they choose to file should they disagree with CBP's decision regarding their proposals, and the costs of being an accreditor. Small businesses may also choose to become training providers and to incur the costs of producing and providing trainings. However, CBP believes that those costs would be recouped by tuition and fees. CBP further expects any costs not directly covered by fees to be minor and included in general business expenses.

Individual brokers employed by these companies would be required to attain 36 hours of continuing education every three years under the terms of the proposed rule. They would also face the opportunity cost of attending trainings as well as the costs of recordkeeping, reporting, and participating in any continuing education compliance audit initiated by CBP. Accordingly, the impacts of the rule to individual brokers

[86] Small business size standards are defined in 13 CFR part 121.

[87] United States Census Bureau, ''2017 County Business Patterns and 2017 Economic Census,'' Released March 6, 2020, *https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html.* Accessed March 15, 2021.

[88] Note that some of the categories are sums of other categories. For example, Category 8, <500, is a sum of Categories 2, 3, 4, 6, and 7. Thus, Categories 7 and 9 are not consecutive, but represent all firms employing 100 or more people.

[89] The Survey of U.S. Businesses (SUSB) from which this data is taken is conducted in years ending in 2 and 7. Note that finalized results from the 2017 survey are scheduled for release in May of 2021.

and affected businesses will depend on if the broker currently meets the proposed training requirements. Based on public comments in response to the ANPRM and discussions between CBP and various broker organizations, CBP estimates most large businesses employing brokers already provide, and often mandate, internal training and continuing education. CBP estimates that these 60 percent of individual brokers already in compliance would not face new costs aside from recordkeeping and reporting. CBP estimates the remaining 40 percent of brokers, mostly at smaller businesses, would need to come into compliance with the proposed rule. Using the primary estimate under which one third of brokers selects each cost tier, and assuming a discount rate of 3 percent, the annualized cost of the rule to all affected brokers is $5,903,336. The rule would affect 5,529 customs brokers in the first year, for an average annualized cost of $1,068 per broker. The average annual receipts for small businesses in the Freight Transportation Arrangement Industry, according to the Census data in Table 28, is $543,589. The number of brokers employed by each business would vary among the small businesses in question, but assuming an average of four brokers per company,[90] the cost of continuing education for each firm would be approximately $4,272 annually, or about 0.79 percent of annual receipts. CBP generally considers effects of less than 1 percent of annual receipts not to be a significant impact. Accordingly, CBP certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3507) an agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB. The collections of information contained in these regulations are provided for by OMB control number 1651–0034 (CBP Regulations Pertaining to Customs Brokers).

The proposed rule would require individual brokers to maintain records of completed continuing education (including, among others, the date, title, provider, location, and credit hours) and certify the completion of the required number of continuing education credits on the triennial report. Based on these changes, CBP estimates a small increase in the burden hours for information collection related to customs brokers regulations. CBP would submit to OMB for review the following adjustments to the previously approved Information Collection under OMB control number 1651–0034 to account for this proposed rule's changes. The addition of the self-attestation and submission of records would add about 30–45 minutes (0.5–0.75 hours) per respondent.

CBP Regulations Pertaining Customs Brokers

Estimated Number of Respondents: 13,822.

Estimated Number of Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 0.333.

Estimated Time per Response: 31.5 minutes (0.525 hours).

Estimated Total Annual Burden Hours: 2,418.85 hours.

D. Signing Authority

This document is being issued in accordance with 19 CFR 0.1(b)(1), which provides that the Secretary of the Treasury delegated to the Secretary of DHS authority to prescribe and approve regulations relating to customs revenue functions on behalf of the Secretary of the Treasury for when the subject matter is not listed as provided by Treasury Department Order No. 100–16. Accordingly, this proposed rule may be signed by the Secretary of DHS (or his or her delegate).

List of Subjects in 19 CFR Part 111

Administrative practice and procedure, Brokers, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth in the preamble, CBP proposes to amend 19 CFR part 111 as set forth below:

PART 111—CUSTOMS BROKERS

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

Authority: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 1641.

* * * * *

■ 2. Revise the second sentence of § 111.0 to read as follows:

§ 111.0 Scope.

* * * This part also prescribes the duties and responsibilities of brokers, the grounds and procedures for disciplining brokers, including the assessment of monetary penalties, the revocation or suspension of licenses and permits, and the obligation for individual customs broker license holders to satisfy a continuing education requirement.

■ 3. In § 111.1, add the definitions ''Continuing broker education requirement'', ''Continuing education credit'', ''Qualifying continuing broker education'', and ''Triennial period'' in alphabetical order to read as follows:

§ 111.1 Definitions.

* * * * *

Continuing broker education requirement. ''Continuing broker education requirement'' means an individual customs broker license holder's obligation to complete a certain number of continuing education credits of qualifying continuing broker education, as set forth in subpart F of this part, in order to maintain sufficient knowledge of customs and related laws, regulations, and procedures, bookkeeping, accounting, and all other appropriate matters necessary to render valuable service to importers and drawback claimants.

Continuing education credit. ''Continuing education credit'' means the unit of measurement used for meeting the continuing broker education requirement. The smallest recognized unit is one continuing education credit, which requires 60 minutes of continuous participation in a qualifying continuing broker education program, as defined in § 111.103(a). For qualifying continuing broker education lasting more than 60 minutes, one continuing education credit may be claimed for the first 60 minutes of continuous participation, and half of one continuing education credit may be claimed for every full 30 minutes of continuous participation thereafter. For example, for qualifying continuing broker education lasting more than 60 minutes but less than 90 minutes, only one continuing education credit may be claimed. In contrast, for qualifying continuing broker education lasting 90 minutes, 1.5 continuing broker education credits may be claimed.

* * * * *

Qualifying continuing broker education. ''Qualifying continuing broker education'' means any training or educational activity that is eligible or, if required, has been approved for continuing education credit, in accordance with § 111.103.

* * * * *

Triennial period. ''Triennial period'' means a period of three years

[90] Many brokerages are sole proprietorships and many employ individual brokers who supervise other employees. The average number of employees per firm is seven. CBP assumes the average firm employs 4 individual brokers and 3 other employees, such as human resource managers.

commencing on February 1, 1985, or on February 1 in any third year thereafter.

■ 4. In § 111.30, revise paragraphs (d)(2)(ii) and (iii) and add paragraph (d)(2)(iv) to read as follows:

§ 111.30 Notification of change of business address, organization, name, or location of business records; status report; termination of brokerage business.

* * * * *

(d) * * *

(2) * * *

(ii) State the name and address of his or her employer if he or she is employed by another broker, unless his or her employer is a partnership, association, or corporation broker for which he or she is a qualifying member or officer for purposes of § 111.11(b) or (c)(2);

(iii) State whether or not he or she still meets the applicable requirements of §§ 111.11 and 111.19 and has not engaged in any conduct that could constitute grounds for suspension or revocation under § 111.53; and

(iv) Report and certify the broker's compliance with the continuing broker education requirement as set forth in § 111.102.

* * * * *

§§ 111.97 through 111.100 [Added and Reserved]

■ 5. Add reserve §§ 111.97 through 111.100.

■ 6. Add subpart F, consisting of §§ 111.101 through 111.104, to read as follows:

Subpart F—Continuing Education Requirements for Individual Customs Broker License Holders

Sec.

111.101 Scope.
111.102 Obligations of individual customs brokers in conjunction with continuing broker education requirement.
111.103 Accreditation of qualifying continuing broker education.
111.104 Failure to report and certify compliance with continuing broker education requirement.

§ 111.101 Scope.

This subpart sets forth regulations providing for a continuing education requirement for individual customs broker license holders and the framework for administering the requirements of this subpart. The continuing broker education requirement is for individual brokers, in order to maintain sufficient knowledge of customs and related laws, regulations, and procedures, bookkeeping, accounting, and all other appropriate matters necessary to render valuable service to importers and drawback claimants.

§ 111.102 Obligations of individual customs brokers in conjunction with continuing broker education requirement.

(a) *Continuing broker education requirement.* All individual customs broker license holders must complete qualifying continuing broker education as defined in § 111.103(a), except:

(1) During a period of voluntary suspension as described in § 111.52; or

(2) When individual customs broker license holders have not held their license for an entire triennial period at the time of the submission of the status report as required under § 111.30(d).

(b) *Required minimum number of continuing education credits.* All individual brokers who are subject to the continuing broker education requirement must complete at least 36 continuing education credits of qualifying continuing broker education each triennial period, except upon the reinstatement of a license following a period of voluntary suspension as described in § 111.52. Upon the reinstatement of a license following a period of voluntary suspension as described in § 111.52, the number of continuing education credits that an individual broker must complete by the end of the triennial period during which the reinstatement of the license occurred will be calculated on a prorated basis of one continuing education credit for each complete remaining month until the end of the triennial period.

(c) *Reporting requirements.* Individual brokers who are subject to the continuing broker education requirement must report and certify their compliance upon submission of the status report required under § 111.30(d).

(d) *Recordkeeping requirements*—(1) *General.* Individual brokers who are subject to the continuing broker education requirement must retain the following information and documentation pertaining to the qualifying education completed during a triennial period for a period of three years following the submission of the status report required under § 111.30(d):

(i) The title of the qualifying continuing broker education attended;

(ii) The name of the provider or host of the qualifying continuing broker education;

(iii) The date(s) attended;

(iv) The number of continuing education credits accrued;

(v) The location of the training or educational activity, if the training or educational activity is offered in person; and

(vi) Any documentation received from the provider or host of the qualifying continuing broker education that evidences the individual broker's registration for, attendance at, completion of, or other activity bearing upon the individual broker's participation in and completion of the qualifying continuing broker education.

(2) *Availability of records.* In order to ensure that the individual broker has met the continuing broker education requirement, upon CBP's request, the individual broker must make available to CBP the information and documentation described in paragraph (d)(1) of this section. CBP can request the information and documentation be made available for in-person inspection, or be delivered to CBP by either hard-copy or electronic means, or any combination thereof.

§ 111.103 Accreditation of qualifying continuing broker education.

(a) *Qualifying continuing broker education.* In order for a training or educational activity to be considered qualifying continuing broker education, it must meet the following two requirements:

(1) *Providers of qualifying continuing broker education.* The training or educational activity must be offered by one of the following providers:

(i) *Government agencies.* Qualifying continuing broker education constitutes any training or educational activity offered by CBP, whether online or in-person, and training or educational activity offered by another U.S. Government agency, whether online or in-person, but only if the content is relevant to customs business. Accreditation is not required for trainings or educational activities offered by U.S. Government agencies.

(ii) *Other providers requiring accreditation.* Any other training or educational activity not offered by a U.S. Government agency, whether online or in-person, will not be considered a qualifying continuing broker education, unless the training or educational activity has been approved for continuing education credit by a CBP-selected accreditor before the training or educational activity is provided.

(2) *Recognized trainings or educational activities.* The training or educational activity must constitute one of the following:

(i) Coursework, a seminar, or a workshop, whether online or in-person, that is conducted by an instructor, discussion leader, or speaker;

(ii) A symposium or convention, with the exception of the attendance at a meeting conducted in accordance with the provisions of the Federal Advisory

Committee Act, as amended (5 U.S.C. App.), whether online or in-person;

(iii) The preparation of a subject matter for presentation as an instructor, discussion leader, or speaker at a training or educational activity described in paragraphs (a)(2)(i) and (ii) of this section, subject to the requirements set forth in paragraph (b) of this section; and

(iv) The presentation of a subject matter as an instructor, discussion leader, or speaker at a training or educational activity described in paragraph (a)(2)(i) or (ii) of this section, subject to the requirements set forth in paragraph (b) of this section.

(b) *Special allowance for instructors, discussion leaders, and speakers.* (1) Contingent upon the approval by a CBP-selected accreditor, an individual broker may claim one continuing education credit for each full 60 minutes spent:

(i) Presenting subject matter as an instructor, discussion leader, or speaker at a training or educational activity described in paragraph (a)(2)(i) or (ii) of this section; or

(ii) Preparing subject matter for presentation as an instructor, discussion leader, or speaker at a training or educational activity described in paragraph (a)(2)(i) or (ii) of this section.

(2) The special allowance for instructors, discussion leaders, and speakers is subject to the following limitations:

(i) For any session of presentation given at one time, regardless of the duration of that session, an individual broker may claim, at a maximum, one continuing education credit for the time spent preparing subject matter for that presentation pursuant to paragraph (b)(1)(ii) of this section.

(ii) Per triennial period, an individual broker may claim, at a maximum, a combined total of 12 continuing education credits earned in accordance with paragraphs (b)(1)(i) and (ii) of this section.

(3) Regardless of whether the training or educational activity is offered by a U.S. Government agency or another provider, any instructor, discussion leader, or speaker seeking to claim continuing education credit in accordance with paragraph (b)(1) of this section must obtain the approval of a CBP-selected accreditor.

(c) *Selection of accreditors.* The Office of Trade will select accreditors based on a Request for Information (RFI) and a Request for Proposal (RFP) announced through the System for Award Management (SAM) or any other electronic system for award management approved by the U.S. General Services Administration, in accordance with the Federal Acquisition Regulation (48 CFR chapter 1), for a specific period of award, subject to renewal. The Executive Assistant Commissioner, Office of Trade, will periodically publish notices in the **Federal Register** announcing the criteria that CBP will use to select an accreditor, the period during which CBP will accept applications by potential accreditors, and the period of award for a CBP-selected accreditor.

(d) *Responsibilities of CBP-selected accreditors.* CBP-selected accreditors administer the accreditation of trainings or educational activities other than those described in paragraph (a)(1) of this section for the purpose of the continuing broker education requirement by reviewing and approving or denying such educational content for continuing education credit. A CBP-selected accreditor's approval of a training or educational activity for continuing education credit is valid for one year, and the accreditation may be renewed through any CBP-selected accreditor.

(e) *Prohibition of self-certification by an accreditor.* CBP-selected accreditors may not approve their own trainings or educational activities for continuing education credit.

§ 111.104 Failure to report and certify compliance with continuing broker education requirement.

(a) *Notification by CBP.* If an individual broker is subject to the continuing broker education requirement pursuant to § 111.102 and submits a status report as required under § 111.30(d)(2), but fails to report and certify compliance with the continuing broker education requirement as part of the submission of the status report, then CBP will notify the individual broker of the broker's failure to report and certify compliance in accordance with § 111.30(d). The notification will be sent to the address reflected in CBP's records, or transmitted electronically pursuant to any electronic means authorized by CBP for that purpose.

(b) *Required response to notice.* Upon the issuance of such notification, the individual broker must within 30 calendar days:

(1) Submit a corrected status report that, in accordance with § 111.30(d), reflects the individual broker's compliance with the continuing broker education requirement, if the individual broker completed the required number of continuing education credits but failed to report and certify compliance with the requirement as part of the submission of the status report; or

(2) Complete the required number of continuing education credits of qualifying continuing broker education and submit a corrected status report that, in accordance with § 111.30(d), reflects the broker's compliance with the continuing broker education requirement, if the individual broker had not completed the required number of continuing education credits at the time the status report was due.

(c) *Suspension of license.* Unless the individual broker takes the corrective actions described in paragraph (b)(1) or (2) of this section within 30 calendar days of the issuance of the notification described in paragraph (a) of this section, CBP will take actions to suspend the individual broker's license in accordance with subpart D of this part.

(d) *Revocation of license.* If the individual broker's license has been suspended pursuant to paragraph (c) of this section and the individual broker fails to take the corrective actions described in paragraph (b)(1) or (2) of this section within 120 calendar days upon the issuance of the order of suspension, CBP will take actions to revoke the individual broker's license without prejudice to the filing of an application for a new license in accordance with subpart D of this part.

Alejandro N. Mayorkas,

Secretary, Department of Homeland Security.

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Part III

The President

Presidential Determination No. 2021–12 of September 7, 2021—Continuation of the Exercise of Certain Authorities Under the Trading With the Enemy Act

Federal Register
Vol. 86, No. 173
Friday, September 10, 2021

Presidential Documents

Title 3—

The President

Presidential Determination No. 2021–12 of September 7, 2021

Continuation of the Exercise of Certain Authorities Under the Trading With the Enemy Act

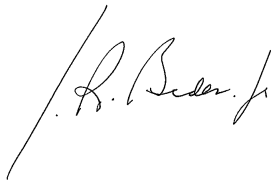
Memorandum for the Secretary of State [and] the Secretary of the Treasury

Under section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. 4305 note), and a previous determination on September 9, 2020 (85 *FR* 57075, September 14, 2020), the exercise of certain authorities under the Trading With the Enemy Act is scheduled to expire on September 14, 2021.

I hereby determine that the continuation of the exercise of those authorities with respect to Cuba for 1 year is in the national interest of the United States.

Therefore, consistent with the authority vested in me by section 101(b) of Public Law 95–223, I continue for 1 year, until September 14, 2022, the exercise of those authorities with respect to Cuba, as implemented by the Cuban Assets Control Regulations, 31 CFR part 515.

The Secretary of the Treasury is authorized and directed to publish this determination in the *Federal Register.*



THE WHITE HOUSE,
Washington, September 7, 2021

[FR Doc. 2021–19747
Filed 9–9–21; 11:15 am]
Billing code 4811–33–P

FEDERAL REGISTER

Vol. 86 Friday,
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Part IV

The President

Notice of September 9, 2021—Continuation of the National Emergency With Respect to Certain Terrorist Attacks

Federal Register
Vol. 86, No. 173
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Presidential Documents

Title 3—

The President

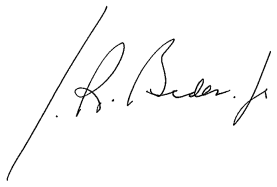
Notice of September 9, 2021

Continuation of the National Emergency With Respect to Certain Terrorist Attacks

Consistent with section 202(d) of the National Emergencies Act, 50 U.S.C. 1622(d), I am continuing for 1 year the national emergency previously declared on September 14, 2001, in Proclamation 7463, with respect to the terrorist attacks of September 11, 2001, and the continuing and immediate threat of further attacks on the United States.

Because the terrorist threat continues, the national emergency declared on September 14, 2001, and the powers and authorities adopted to deal with that emergency must continue in effect beyond September 14, 2021. Therefore, I am continuing in effect for an additional year the national emergency that was declared on September 14, 2001, with respect to the terrorist threat.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
September 9, 2021.

[FR Doc. 2021–19788
Filed 9–9–21; 11:15 am]
Billing code 3295–F1–P

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