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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

[Doc. No. AMS–SC–21–0077; SC21–984–4]

Walnuts Grown in California; Notification of Moratorium

AGENCY: Agricultural Marketing Service, Department of Agriculture (USDA).

ACTION: Notification.

SUMMARY: The U.S. Department of Agriculture (USDA) is announcing a six-month moratorium on the enforcement of mandatory inspection requirements under the Federal marketing order for California walnuts.

DATES: This enforcement moratorium began September 1, 2021.

ADDRESSES: Copies of the marketing order may be obtained from the office 1220 SW 3rd Avenue, Suite 305, Portland, OR 97204; Telephone: (503) 326–2724; or the Office of the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491; or on the internet *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joshua R. Wilde or Gary D. Olson, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA, 1220 SW 3rd Avenue, Suite 305, Portland, OR 97204; Telephone: (503) 326–2724, or Email: *Joshua.R.Wilde@usda.gov* or *GaryD.Olson@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Marketing Agreement and Order No. 984, as amended (7 CFR part 984), hereinafter referred to as the ''Order,'' and applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act,'' it is hereby announced that a six-month moratorium on the enforcement of mandatory inspection requirements under the Federal marketing order for California walnuts is effectuated beginning September 1, 2021. This moratorium also includes inspection requirements on walnuts imported into the United States under section 608e of the Agricultural Marketing Agreement Act of 1937, as amended.

The six-month moratorium will also affect the California Walnut Board's (CWB) collection of assessments from domestic handlers under the marketing order. While the moratorium is in effect, the CWB will be unable to collect assessments to finance its operational activities. Instead, the CWB will be able to employ financial practices authorized by the marketing order, which may include utilizing borrowing authority, using its financial reserves, and accepting voluntary contributions.

The moratorium is based on discussions with industry about market disruptions associated with the COVID–19 pandemic, such as labor and transportation interruptions and ongoing tariff issues. The combination of these issues is adversely affecting market conditions across the California walnut industry.

Through this notification, USDA is informing stakeholders, including the Dried Fruit Association; the California Department of Food and Agriculture; U.S. Customs and Border Protection; and walnut producers, handlers, and importers that USDA is exercising its discretion to issue the six-month moratorium on the enforcement of mandatory inspection requirements.

The moratorium will remain in place for six months beginning September 1, 2021. If, during the moratorium, the CWB will submit a proposal for formal rulemaking to address inspection requirements in the marketing order. USDA may extend the moratorium until resolution of the rulemaking process.

USDA's role of overseeing the CWB and the Order's operations will continue uninterrupted during the moratorium.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2021–21105 Filed 9–28–21; 8:45 am]

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DEPARTMENT OF EDUCATION

34 CFR Part 9

[Docket ID ED–2020–OGC–0150]

RIN 1801–AA22

Rulemaking and Guidance Procedures

AGENCY: Office of the General Counsel, Department of Education.

ACTION: Final regulations.

SUMMARY: The Department of Education (Department) rescinds the Department's Rulemaking and Guidance Procedures interim final rule (IFR).

DATES: This rule is effective September 29, 2021.

FOR FURTHER INFORMATION CONTACT: Lynn Mahaffie, U.S. Department of Education, 400 Maryland Avenue SW, Room 6E231, Washington, DC 20202. Telephone: (202) 453–7862. Email: *lynn.mahaffie@ed.gov.*

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SUPPLEMENTARY INFORMATION:

Background: This regulatory action rescinds the Rulemaking and Guidance Procedures IFR and removes 34 CFR part 9.

The Department published the IFR on October 5, 2020 (85 FR 62597), to codify procedures relating to the issuance of rulemaking and guidance documents. The IFR followed Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents,'' issued on October 9, 2019. 84 FR 55235. That Executive Order called for Federal agencies, including the Department, to finalize or amend regulations to set forth processes and procedures for issuing guidance documents, consistent with the order. The IFR became effective on November 4, 2020. 85 FR 62597.

In the IFR, the Department established an internal process for the Department's development of regulations, under which the Secretary establishes a Regulatory Reform Task Force (RRTF), designates the members of the RRTF, and identifies the Department's Regulatory Reform Officer (RRO), in accordance with Executive Order 13777. 34 CFR 9.5. Section 9.7 of the IFR describes steps that the Department

must engage in before developing a significant regulation, including that the principal operating component (POC) proposing the regulation prepare a Rulemaking Initiation Request that describes, for example, the need for the regulation, the legal authority for the rulemaking, whether the rulemaking is expected to be regulatory or deregulatory, and whether it is expected to be significant, as defined by Executive Order 12866. Both the Working Group and the Leadership Council of the RRTF must review and approve the Rulemaking Initiation Request for the action to move forward. Section 9.9(d) requires that the Department review all significant regulations on a 10-year cycle to determine whether they have, among other things, a continued policy justification and a continued cost justification. Additionally, the IFR contains special procedures for economically significant rules and high-impact rules in § 9.10. That section establishes a definition of the term ''high-impact'' rule and provides, for example, that the comment period for high-impact rule will be at least 90 days and that, following the publication of an NPRM for an economically significant or high-impact rule, any interested party may request that the Department hold a formal hearing on the proposed rule.

The IFR also established rules related to the publication of guidance documents, expressing that the Department's policy is to disfavor guidance except in special circumstances. 34 CFR 9.12. Section 9.14(c) requires that a POC proposing to issue a significant guidance document prepare a Significant Guidance Document Initiation Request to be reviewed by the Working Group and Leadership Council of the RRTF. Additionally, unless the Department and Administrator of the Office of Information and Regulatory Affairs (OIRA) at the Office of Management and Budget (OMB) agree that exigency, safety, health, or other compelling cause warrants an exemption from some or all requirements, upon approval of the Leadership Council of the RRTF, the Department will issue a significant guidance document only after completing a 30-day period of public notice and comment and approval by the Secretary or the component head or by an official serving in an acting capacity as either of the foregoing before issuance. Section 9.16 further requires that the Department will provide a 30-day notice and comment period before rescinding a significant guidance document and publish a notice in the **Federal Register** announcing the rescission.

On January 20, 2021, the President issued Executive Order 13992 which revoked several other Executive orders, including Executive Orders 13891 and 13777. 86 FR 7049. Executive Order 13992 directed heads of agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the revoked Executive Orders, as appropriate and consistent with applicable law, including the Administrative Procedure Act (APA), 5 U.S.C. 551 *et seq.* 86 FR 7049. The express purpose of Executive Order 13992 is to equip Executive departments and agencies with the flexibility to use robust regulatory action to effectively address national priorities and tackle challenges, such as the coronavirus disease 2019 (COVID–19) pandemic, economic recovery, racial justice, and climate change.

Consistent with Executive Order 13992, the Department is exercising its discretion to rescind the IFR. Since the issuance of the IFR, the Department has developed and published many regulatory and guidance documents under challenging circumstances. This experience has led us to recognize that many of the procedures required by the IFR create obstacles to the timely issuance of regulatory and guidance documents, and we believe they do not benefit either the Department or the public.

While the goals of the IFR were to increase transparency, fairness, and public participation, and strengthen the overall quality and fairness of the Department's processes, we believe, based on our recent experience and the public comments we received, that the IFR's requirements regarding the regulatory and guidance processes will not help the Department achieve those goals. Sections 9.6, 9.7 and 9.9 relate to the Department's internal procedures to initiate a rulemaking. Those sections require the Department to establish an RRTF, and set forth in detail the roles of the Working Group and Leadership Counsel, as well as the roles of a number of individuals and offices within the Department. In addition, they prescribe a formal process for initiating a rulemaking and the Department's internal review process of proposed rules. Those procedures are entirely internal to the Department and will not increase transparency, fairness, or public participation, nor do we believe that they will they strengthen the overall quality and fairness of the Department's processes.

Additionally, we do not believe that the special procedures for economically significant rules and high-impact rules will achieve the goals of the IFR. Rather, they will likely benefit sophisticated stakeholders, rather than students, children, and families. For example, the procedures for formal hearings in § 9.10(c) allow an interested party to file a petition for a formal hearing on a proposed economically significant or high-impact rule. As noted in public comments in response to the IFR, well-financed and sophisticated stakeholders will likely have an advantage over small organizations or individuals when engaging in a formal hearing on complex regulatory issues before a Department hearing official.

Although the provisions governing the Department's internal processes for the approval and issuance of regulations and guidance documents contain some flexibility when the Department is faced with extraordinary circumstances (see, *e.g.,* § 9.14(h)(1)), we believe that the provisions create unreasonable burdens on Department staff and will slow the process of issuing regulatory and guidance documents without improving the quality of the documents. Allowing the Department to issue guidance documents that clarify its understanding of relevant law and how it intends to use its discretionary authority without these additional procedural hurdles imposed by the IFR will better allow it to serve students, schools, and other stakeholders.

Some of the IFR's procedures involved the Department's Regulatory Reform Task Force (RRTF) and regulatory reform officer (RRO), which were established pursuant to Executive Order 13777. 82 FR 12285. That Executive Order also was revoked by Executive Order 13992, which specifically directed agencies to abolish RRTFs and RRO positions established by Executive Order 13777. 86 FR 7049.

This rescission is responsive to public comments received on the IFR. While most parties that submitted public comments in response to the IFR requested that the Department rescind the IFR in its entirety, we also address the specific reasons cited by commenters as justifying rescission.

Public Comment: The IFR is an internal rule of agency procedure. See 5 U.S.C. 553(a)(2), 553(b)(A).

Nonetheless, the Department invited public comments on the IFR to allow members of the public to provide their input about the content of the rule. In response to our invitation in the IFR, nine parties submitted comments on the IFR. In this preamble, we respond to those comments, which we have

grouped by subject. Generally, we do not address technical or other minor changes.

Analysis of Public Comments: An analysis of the public comments received follows.

General

Comment: The majority of commenters urged the Department to withdraw the IFR in its entirety. In general, commenters noted that the IFR creates burdensome requirements that will only delay critical agency action and make government less responsive to the needs of constituents. Commenters also argued that the IFR creates unreasonably burdensome processes for issuing regulations and guidance, rather than promoting fair process. One commenter noted that the Department already has many steps in place that ensure that rulemaking is undertaken with public input and in the public interest and that the IFR requires many procedures that may create delays in implementation of student protections and programmatic oversight.

Discussion: The Department agrees with the commenters that seek rescission of the IFR. Consistent with Executive Order 13992, it is crucial that the Department be able to issue and modify regulations and guidance quickly, especially considering challenges such as those caused by the COVID–19 pandemic. The procedures required in the IFR for the initiation, modification, and withdrawal of rulemaking and guidance documents hinder the Department from responding nimbly to the needs of stakeholders. The APA and other laws applicable to the issuance of rulemaking and guidance documents, including the Higher Education Act of 1965, as amended (20 U.S.C. 1001, *et seq.*) (HEA); the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 6301, *et seq.*) (ESEA); the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612); the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)); Executive Order 12866; and OMB's Final Bulletin for Agency Good Guidance Practices (Guidance Bulletin) published on January 25, 2007 (72 FR 3432), sufficiently ensure transparency and public participation in the rulemaking and guidance processes.

Changes: The Department rescinds 34 CFR part 9.

Comments: Commenters expressed concern about the IFR's effect on the Department's ability to effectively meet its mission as it relates to students with disabilities. They stated that introducing obstacles in the IFR for issuing regulations and guidance could not come at a worse time, noting that students with disabilities and their families have been particularly adversely affected by physical school closures during the COVID–19 pandemic and remain in need of timely and responsive guidance from the Department.

Commenters also noted that the Department has issued several important guidance documents since the pandemic began to help schools understand their ongoing obligations to students with disabilities, such as question and answer documents related to COVID–19 that help clarify the law during a time when States, districts, and families need immediate information from the Department. The commenters stated that the Department must continue to be able to do so in a timely and efficient manner.

Discussion: The Department appreciates and agrees with the commenters' observations about the effect the COVID–19 pandemic has had on all students, especially students with disabilities. The Department has learned how challenging it has been over the past year to successfully respond to the needs of students and families that were caused by the pandemic with the requirements of the IFR in place. To ensure the needs of these students are met in the future, the Department will continue to need to act timely and efficiently, and the Department believes that the burdensome requirements of the IFR may hinder its ability to do so.

Changes: The Department rescinds 34 CFR part 9.

Comments: One commenter supported the IFR, stating that the Department's adoption of the procedures in the IFR signals that it is invested in meaningful regulatory reform that will curb abuses of administrative power.

Discussion: While the Department appreciates the comment, it does not agree that there is abuse of administrative power in the Department. Instead, the purpose behind the issuance of the IFR was to provide a clear process by which the Department could engage in rulemaking in a transparent manner with meaningful public input. After further consideration, the Department agrees with most of the commenters that the processes that it imposed were unduly burdensome and unnecessary given the requirements of the APA, HEA, and ESEA, which the Department follows, as applicable, and which require public input when rulemaking.

Changes: The Department rescinds 34 CFR part 9.

Comments: Some commenters stated that the Department failed to provide a meaningful opportunity for public input by issuing an IFR instead of a notice of proposed rulemaking. One commenter stated that there was no urgency that requires proceeding through an IFR and that the COVID–19 pandemic warrants allowing more time for submission of public comments and meaningful review. Another commenter questioned whether the IFR qualifies as the kind of procedural rule that falls within the APA's narrow exemption to notice-and-comment rulemaking, and stated that, according to the criteria of the Administrative Conference of the United States, the Department should allow for public comment on all aspects of the rulemaking.

Discussion: The Department does not agree that it failed to provide a meaningful opportunity for public input on the IFR. Although the Department issued the IFR without first publishing proposed regulations for public comment, it did invite public comment on the IFR and noted that it would consider all comments in determining whether to revise the regulations. Furthermore, as the IFR was a ''rule[ ] of agency . . . procedure, or practice,'' the APA notice-and-comment rulemaking requirements do not apply. 5 U.S.C. 553(b)(B). The exception for procedural rules ''covers agency actions that do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency.'' *JEM Broad. Co.* v. *FCC,* 22 F.3d 320, 326 (D.C. Cir. 1994), quoting *Batterton* v. *Marshall,* 648 F.2d 694, 707 (D.C. Cir. 1980). The IFR contains requirements that govern the Department's internal procedures and practices related to the issuance or regulatory and guidance documents, as well as the procedures that the public must follow to present their views to the Department, such as the processes by which individuals may petition the Department to issue, amend, or repeal a rule (§ 9.9(c)) or request the withdrawal or modification of a guidance document or significant guidance document (§ 9.15).

The Department's rescission of the IFR's requirement to develop significant guidance documents using notice-and-comment procedures (§ 9.14(h)(1)) is also procedural because the APA contemplates that such procedures are within the discretion of an agency to grant or lift given that the APA excepts guidance documents from notice-and-comment rulemaking requirements (see 5 U.S.C. 553(b)(A)).

Finally, notice-and-comment rulemaking requirements also do not apply to regulations that involve a

''matter relating to agency management and personnel,'' 5 U.S.C. 553(a)(2). In addition to relating to agency procedure and practices, many of the requirements in the IFR relate to agency management and personnel, including the provisions governing the structure and composition of the RRTF, Leadership Council and Working Group, those outlining the responsibilities of individuals in various Department positions, and the requirements describing the roles and obligations of specific Department offices in the creation of regulatory and guidance documents.

After considering all comments and Executive Order 13992, the Department has decided to rescind the IFR altogether, consistent with Executive Order 13992.

Changes: The Department rescinds 34 CFR part 9.

Policies (§ 9.4)

Comments: One commenter noted that the IFR contains problematically vague language, such as § 9.4(a)(2)(ii), which provides that rulemaking interpretations must raise no ''major question.'' The commenter expressed concern that the IFR does not define this term and that invoking such undefined and controversial language is problematic.

Discussion: The Department appreciates the comment and also believes that the term ''major question'' taken together with the remaining portion of the sentence is unclear and problematic. The Department is rescinding § 9.4 as part of its rescission of the IFR, and will rely on the APA, existing Executive Orders, and established case law in determining when rulemaking is appropriate.

Changes: The Department rescinds 34 CFR part 9.

General rulemaking procedures (§ 9.9)

Comments: Some commenters recommended that the Department eliminate § 9.9(c), which provides that any interested person may petition the Department to issue, amend, or repeal a rule or for an exemption from a rule that authorizes a permanent or temporary exemption, or to perform a retrospective review of an existing rule. Commenters argued that this provision could lead to unnecessary delays, while empowering industry in a process that is already heavily influenced by industry without providing adequate weight to the interests of students and consumers. Commenters stated that it was unclear how petitions will be analyzed and ruled upon, and that, given the existing opportunities for public input during regulatory processes, including through public comment, hearings before negotiated rulemakings, and in negotiated rulemaking sessions, it is not clear how this additional action will advance rulemaking. Instead, commenters expressed concern that the IFR will further skew the balance on behalf of industry and away from students and consumers and increase the likelihood that bad-actor institutions will be granted exemptions from having to follow the rules.

Discussion: While the Department appreciates the commenters' request to rescind § 9.9(c) and believes it is necessary to rescind the IFR in its entirety, the language in § 9.9(c), in large part, is mirrored in sections 553(e) and 555(e) of the APA and, therefore, exists outside of this IFR.

We acknowledge the concerns about unequal access in the petition process. In complying with the petition requirements established in the APA, the Department intends to use a process that treats everyone equitably and will continue to work to ensure we receive input from all stakeholders, including students and consumers.

Changes: The Department rescinds 34 CFR part 9.

Comments: One commenter stated that § 9.9(c) is inconsistent with best practices as articulated in recommendations from the Administrative Conference of the United States. The commenter noted that the docket for petitions on *regulations.gov* is difficult for unsophisticated petitioners to find and cited some potential technical issues.

Discussion: We appreciate the commenter's concerns that the docket for petitions on *regulations.gov* can be difficult for petitioners unfamiliar with the site to find. The Department would like flexibility to make changes to the petition process as new technologies and procedures become available.

Changes: The Department rescinds 34 CFR part 9.

Comments: One commenter objected to the inclusion of § 9.9(d) providing that all significant Department regulations will be reviewed on a 10-year cycle. The commenter stated that the requirement will burden Department staff in unending process by requiring them to defend existing regulations from repeal every 10 years. The commenter contrasted the requirements of Executive Order 13563 (76 FR 3821), issued on January 21, 2011, with the rule. Executive Order 13563 requires that Federal agencies, subject to resource constraints, conduct a periodic review of significant regulations to determine whether they should be changed, including whether they should be broadened. The commenter contended that, in expanding upon the requirement in the Executive order, the IFR established a backward-looking process that will unnecessarily burden Department staff and prevent them from pursuing work central to the Department's mission.

Discussion: The Department agrees with the commenters that recommended rescission of the IFR, including this commenter's request to rescind § 9.9(d). A requirement for the Department to review all significant Department regulations on a 10-year cycle does burden the Department with a backward-looking process that takes time away from the Department's ability to pursue work central to the Department's mission. We note that, after this rescission, nothing prohibits the Department from reviewing regulations on a case-by-case basis, to assess whether they are achieving their intended goals. However, we believe that doing so on a mandatory, fixed cycle for all regulations is contrary to the goal of flexibility expressed in Executive Order 13992 and is not the best use of Department resources.

Changes: The Department rescinds 34 CFR part 9.

Comments: One commenter stated that the IFR is arbitrarily biased in favor of deregulation and against full consideration of regulatory benefits. As an example, the commenter noted that § 9.9(e) provides that deregulatory rulemakings will be assessed for cost savings but fails to clarify that foregone benefits must also be assessed. Additionally, § 9.9(d)(2)(ii) requires that retrospective review include a review of the cost justification to test whether the rule is no longer net beneficial, but the IFR fails to provide for a review of whether the net benefits of existing rules could be increased by modifying the scope or structure of the regulation. Finally, in several provisions, the IFR requires that the regulatory benefits must ''exceed'' or ''outweigh'' costs, when the appropriate language, as articulated by Executive Order 12866, is that benefits should ''justify'' costs, which better allows analysts and decisionmakers to give due weight to unquantified benefits.

Discussion: We agree with this commenter. We note that Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' which emphasized cost considerations over benefits in rulemaking and formed part of the basis for the IFR, as noted in § 9.1(c), was revoked by Executive Order 13992. Accordingly, consistent with Executive Order 12866, in determining whether rulemaking is appropriate, the Department will consider whether the benefits, including unquantifiable

benefits, justify the costs of the proposed regulatory action, consistent with OMB Circular A–4.[1]

Changes: The Department rescinds 34 CFR part 9.

Special procedures for economically significant rules and high-impact rules (§ 9.10)

Comments: Some commenters urged the Department to eliminate § 9.10(c), which contains procedures for an interested party to file a petition for a formal hearing on a proposed rule following publication of a notice of proposed rulemaking for an economically significant rule or a high-impact rule that has not gone through negotiated rulemaking. Commenters argued that the procedures empower industry in a process that is already heavily influenced by industry without providing adequate weight to students and consumers. Additionally, commenters indicated that this process will delay the finalization of rules. One commenter stated that formal rulemaking, including holding hearings, is a defunct process that will inevitably delay rulemaking, has been shown to be ineffective in empirical analyses by administrative law scholars, and would disadvantage interested parties that do not have the resources to hire attorneys. The commenter asserted that hearings are doubly inappropriate after the Department has completed negotiated rulemaking, as permitted under § 9.10(c)(2)(ii), because Congress structured the negotiated rulemaking process to ensure that all impacted parties, including students, borrowers, and other stakeholders, have a voice in the rulemaking process and have an opportunity to respond to proposals and arguments. The commenter stated that the additional hearings under the IFR would give resourced industry lobby groups an unfair advantage in conveying their views to the Department.

Another commenter stated that the special procedures for economically significant and high-impact rulemakings create glaring and problematic hurdles and that, in erecting these new obstacles, the IFR fails to satisfy its own standard for clearly stating a demonstrated need for the proposed regulation. The commenter also noted that the IFR does not explain why the additional procedural hurdles are necessary or beneficial and fails to consider the costs of these hurdles in terms of delayed regulatory benefits.

Discussion: The Department appreciates and agrees with the commenters' concerns regarding the special procedures for economically significant and high-impact rulemakings. The Department appreciates the concerns that these formal proceedings may present obstacles for some stakeholders, including consumers and students. We also agree that the special procedures could lead to unnecessary rulemaking delays and inhibit regulatory flexibility. The Department believes that its rulemaking procedures under the APA and its negotiated rulemaking procedures under the HEA and ESEA provide ample and equitable opportunity for stakeholders to provide the Department their views on proposed regulations and that there is not a significant benefit to requiring additional hearings. The Department agrees that the IFR should be rescinded, including § 9.10.

Changes: The Department rescinds 34 CFR part 9.

Guidance documents (§ 9.13)

Comments: Commenters argued that the guidance process established in the IFR is overly burdensome, as agencies address more substantial legal issues through rulemaking, which includes notice-and-comment procedures. They noted that agencies may need to quickly issue guidance so that beneficiaries of Federal services and grantees obtain information that they need to perform services in accordance with the law. The commenters noted that the Department has recognized the value of regular subregulatory guidance, such as the Office for Civil Rights' blog related to clarifications and explanations of the new Title IX regulations. They contended that the IFR, which disfavors guidance except in special circumstances and requires Department staff to demonstrate a compelling operational need to issue new guidance, wrongly presumes that guidance is almost always unnecessary. Additionally, a commenter believed the inclusion of electronic announcements and documents that set forth policies on technical issues in the definition of ''guidance document'' in § 9.13(a) will inhibit administrative flexibility and slow the issuance of important guidance and technical assistance documents. Further, they noted that the requirement in § 9.13(c) that all guidance be cleared by the General Counsel will delay the Department's timely issuance of guidance.

Discussion: We agree with commenters that it is important in some circumstances for the Department to have the flexibility to issue guidance quickly so that grantees and other stakeholders have the information they need in a timely manner and that the requirements in § 9.13 related to the issuance of guidance are burdensome and could cause excessive delays. For example, in recent months, the Department has issued guidance documents to help schools and institutions of higher education react to the pandemic and to make the best use of COVID–19 relief funds. To be useful, this guidance needed to be issued and modified quickly as circumstances changed. We recognize the value of timely guidance and agree that the IFR's policy to disfavor guidance except in special circumstances and the requirement that Department staff demonstrate a compelling operational need to issue new guidance creates an unreasonable presumption that guidance is almost always unnecessary.

By rescinding the IFR, the Department will have the ability to issue guidance, which may include technical assistance documents and electronic announcements, more quickly when needed. Additionally, with the rescission of the IFR, the Department will use an internal clearance process that is appropriate for the nature and scope of the guidance documents being issued.

Changes: The Department rescinds 34 CFR part 9.

Comments: A commenter asserted that requiring the disclaimer in § 9.13(b) stating that guidance documents are not legally binding will likely foster confusion among constituencies. For example, although they are not technically legally binding, guidance about the Department's interpretation of court decisions or prioritizing certain types of cases can significantly impact how stakeholders should comply with existing law.

Discussion: We appreciate the commenter's concerns about the disclaimer language in § 9.13(b). By rescinding § 9.13, as well as all of part 9, the Department will have the flexibility to provide information about guidance documents that is appropriate for the intended audience and subject matter of the guidance.

Changes: The Department rescinds 34 CFR part 9.

Comments: One commenter asserted that § 9.13(a)(9) will unnecessarily create confusion for stakeholders by not considering agency statements, such as responses from the Department to a stakeholder's specific question, to be guidance documents unless they offer an interpretation of the law. The commenter stated that not including this type of communication in the

[1] Office of Mgmt. & Budget, Exec. Office of the President, *Circular A–4, Regulatory Impact Analysis: A Primer* 13 (Aug. 15, 2011), *available at www.reginfo.gov/public/jsp/Utilities/circular-a-4_regulatory-impact-analysis-a-primer.pdf* (discussing ''[b]enefits and costs that are difficult to quantify'').

definition of ''guidance document'' is nonsensical, as a stakeholder's question about a law's application to a specific circumstance necessarily requires the Department to respond with its interpretation of the relevant law. They said that the IFR's definition of the term ''guidance document'' introduces new confusion as to when parties can turn to such guidance to ensure their actions comply with applicable laws. The commenter expressed concern that the Department may be inclined to provide indirect and unhelpful responses to questions from stakeholders to avoid triggering the burdensome requirements for developing guidance.

Discussion: The definition of ''guidance document'' in the IFR is based on the definition of the same term in OMB's Guidance Bulletin, which remains in effect. Under this definition, only agency statements of general applicability that otherwise meet the definition constitute guidance documents for purposes of the laws and procedures related to guidance documents. If an agency statement in response to a specific stakeholder question interprets a law, it may be generally applicable if it is intended to apply to other stakeholders in the same or similar circumstances. The Department continues to welcome questions from stakeholders about their specific circumstances and strives to provide responses that are as timely, direct, and helpful as possible in the given circumstances. In responding to stakeholder questions, the Department will determine whether its response is limited to that stakeholder or whether it is of general applicability and better provided to all stakeholders through its guidance procedures.

Changes: The Department rescinds 34 CFR part 9.

Comments: Commenters objected to the process for rescinding guidance documents in § 9.13(e), which states that all active guidance documents will be available through the Department's guidance portal and that documents that are not available in the portal are not considered to be in effect. Commenters expressed concern that the IFR does not address how the Department will select which guidance documents will be in the portal, what issues the Department may consider in withdrawing guidance, or how it must notify stakeholders about public requests for withdrawal of guidance.

One commenter noted that advocates for students with disabilities have opposed recent actions by the Department to rescind guidance, most notably the rescission of the 2014 Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline. The commenter recognized the guidance was not legally binding, but argued that the guidance clarified regulatory requirements, and its rescission made the obligations of States and school districts less clear.

One commenter suggested that the Department engage with stakeholders to develop a process in which guidance documents are comprehensively scrutinized so that a clear and compelling reason for their removal is ascertained, and that such a process must be done in a way that does not harm the interests of underserved communities or advance the special interests of groups with political power.

Discussion: The Department evaluates guidance on an ongoing basis to make sure that it is not outdated and that it accurately reflects current Department policy. Where necessary, changes are made or guidance is rescinded, in compliance with applicable law. The Department is committed to ensuring that the public always has access to the most current Department guidance. The guidance portal continues to be available at: *https://www2.ed.gov/policy/gen/guid/types-of-guidance-documents.html.*

The public may contact the relevant office or contact person specified in a guidance document to inquire about its status or raise concerns. Generally, for guidance documents that are being rescinded for policy reasons, where we are exercising our discretion, we use the same method for rescinding the guidance document that we use for issuing it. For example, if the guidance document was issued by posting it to the program web page, we would notify the public of the rescission through a posting to the same web page.

The Department believes that collaboration with stakeholders is valuable; however, we are concerned that the process described by the commenter would create unreasonable obstacles and impede the Department's ability to quickly withdraw or modify guidance in response to challenging circumstances or a change in law. We decline to adopt this suggestion but recognize the importance of considering the interests of different stakeholders when deciding to withdraw or modify guidance and will seek stakeholder input as needed and when practicable.

Changes: The Department rescinds 34 CFR part 9.

Significant guidance documents (§ 9.14)

Comments: Commenters objected to the procedures for the issuance of significant guidance documents in § 9.14(h), most significantly the requirement for a period of public notice and comment. One commenter stated that requiring a process that traditionally has been reserved for only legally binding agency rules will needlessly burden a process meant to be distinct from, and more responsive and flexible than, rulemaking. According to the commenter, this requirement could cause unnecessary delays, including for important question-and-answer guidance documents that help clarify the law during such events as the COVID–19 pandemic when States, districts, and families need immediate information from the Department. Similarly, the commenter contended that the IFR would prohibit the Department from quickly clarifying new laws, such as the Coronavirus Aid, Relief, and Economic Security (''CARES'') Act, as well as existing law, and hamper the Office for Civil Rights and other offices in the Department from issuing clarifying policy that could be considered significant because it raises novel legal or policy issues arising out of legal mandates.

Discussion: Consistent with Executive Order 13992, we are rescinding § 9.14. Although we believe that a 30-day comment period for guidance documents may be valuable in many instances, we believe that requiring it in all circumstances would hinder the Department's ability to provide stakeholders with timely information relating to new and existing laws and requirements. Guidance, especially quick and timely guidance, can serve an important purpose, because it can be clearer and issued faster than case-by-case adjudication and is more flexible than full notice-and-comment rulemaking, and also permits more accessible, audience-tailored explanations. ''[I]nformal communications between agencies and their regulated communities . . . are vital to the smooth operation of both government and business.'' *Indep. Equip. Dealers Ass'n* v. *EPA,* 372 F.3d 420, 428 (D.C. Cir. 2004), and requiring an agency ''to undertake notice and comment whenever it refines an interpretation of its rules or statutory authorities would discourage the agency from synthesizing and documenting helpful and reliable advice.'' *POET Biorefining, LLC* v. *Envtl. Prot. Agency,* 970 F.3d 392, 408 (D.C. Cir. 2020).

Changes: The Department rescinds 34 CFR part 9.

Request for withdrawal or modification of guidance documents and significant guidance documents (§ 9.15)

Comments: One commenter objected to § 9.15, which provides a process by

which members of the public may request the withdrawal or modification of an existing guidance document or significant guidance document. According to the commenter, this process would fail to deliver meaningful transparency and public participation because it subjects crucial guidance to Department review based on the whims of any interest group, without any requirement that the Department notify and work in collaboration with regulated entities and other stakeholders in considering whether to grant a petition.

Discussion: Consistent with Executive Order 13992, we are rescinding § 9.15. We do not believe that it is necessary to have a formal process for requests that the Department withdraw or modify guidance or to require the Department to respond by a specific deadline. Such a process could overburden the Department's resources and hamper its ability to perform other needed activities in a timely manner. The Department will continue to follow the procedures in the Guidance Bulletin, under which an agency must establish and clearly advertise on its website a means for the public to submit a request electronically for issuance, reconsideration, modification, or rescission of significant guidance documents.

Changes: The Department rescinds 34 CFR part 9.

Comments: One commenter approved of the Department's inclusion of a process for challenging agency guidance documents in § 9.15(a) but stated that the IFR should also expressly provide for availability of judicial review after the final disposition of a petition for withdrawal or modification of guidance documents.

Discussion: The Department appreciates the commenter's suggestion but declines to adopt it because we are rescinding § 9.15(a) and all of part 9, consistent with Executive Order 13992. Nonetheless, consistent with the Guidance Bulletin, the Department provides on its website a means for the public to comment on, and submit requests for issuance, reconsideration, modification, or rescission of, significant guidance documents. Specifically, each significant guidance document provides an email link that allows members of the public to submit questions or comments, including requests that the Department revise the significant guidance document. Moreover, the public may submit comments on, and make such requests with respect to, all other guidance through the contact listed in the guidance document, and stakeholders will continue to have all available legal remedies.

Changes: The Department rescinds 34 CFR part 9.

Rescinded significant guidance documents (§ 9.16)

Comments: Two commenters stated that § 9.16(a), which provides for a 30-day notice-and-comment period before the Department rescinds a significant guidance document, as well as publication of a **Federal Register** notice announcing any rescission, is unnecessary. According to these commenters, a procedure for rescinding a guidance document should not be any more difficult than the procedure in effect when the guidance document was issued. They noted that case law adopts this symmetrical approach in the analogous question of when notice and comment is necessary to change an interpretation. Therefore, these commenters contended, the IFR should only apply to significant guidance documents that are issued after the date the IFR is effective, and publication of a **Federal Register** notice announcing the rescission of significant guidance should not be required when the issuance of significant guidance does not require the same.

Discussion: Consistent with Executive Order 13992, we are rescinding all of part 9, including § 9.16. We agree with the commenters that the IFR procedures are unnecessary and unduly burdensome and that the procedures for rescission will be based on the method by which the guidance was adopted, consistent with *Perez* v. *Mortg. Bankers Ass'n,* 575 U.S. 92, 101 (2015), as well as other relevant circumstances.

Changes: The Department rescinds 34 CFR part 9.

Executive Orders 12866 and 13563 Regulatory Impact Analysis

Under Executive Order 12866, OMB must determine whether this regulatory action is ''significant'' and, if so, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

OMB has determined that this regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 (76 FR 3821), issued on January 18, 2011, also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' OIRA has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are rescinding the IFR only on a reasoned determination that the benefits would justify the costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on the analysis that

follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We have also determined that this regulatory action would not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

Costs and Benefits

In accordance with Executive Order 13563, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The Department does not anticipate any potential costs associated with the rescission of the IFR, while the potential benefits are significant. The rescission of the IFR will benefit the public by allowing the Department to respond quickly to the needs of students, school districts, and other stakeholders by issuing regulations and guidance to clarify legal requirements. In addition, there will be cost savings associated with the rescission based on the removal of the additional procedural requirements on the Department that were required by the IFR, such as that it engage in additional public hearings and perform more frequent retrospective reviews of agency regulations. The Department believes that the benefits that were identified in the IFR, including providing transparency and performing a comprehensive analysis of each regulatory action, ensuring that the public is subject only to rules imposed through statutes and regulations, and providing the public with fair notice of their obligations will be achieved through existing agency processes pursuant to existing law, such as the APA, HEA, ESEA, Regulatory Flexibility Act, Paperwork Reduction Act, and Guidance Bulletin.

As explained under *Paperwork Reduction Act of 1995,* there are no information collection requirements associated with this regulatory action.

Regulatory Flexibility Act Certification

Because the IFR is an internal rule of agency procedure, see 5 U.S.C. 553(a)(2), 553(b)(A), notice-and-comment rulemaking is not necessary to rescind the IFR. As a result, the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act of 1995

As part of its continuing effort to reduce paperwork and respondent burden, the Department provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This helps ensure that the public understands the Department's collection instructions; respondents can provide the requested data in the desired format; reporting burden (time and financial resources) is minimized; collection instruments are clearly understood; and the Department can properly assess the impact of collection requirements on respondents.

Because we are rescinding 34 CFR part 9, there are no associated information collection requirements.

Accessible Format: On request to the program contact person 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.

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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.

List of Subjects in 34 CFR Part 9

Administrative practice and procedure.

Miguel A. Cardona,

Secretary of Education.

PART 9—[REMOVED]

■ Accordingly, for the reasons discussed in the preamble and under the authority of 20 U.S.C. 1221e–3, the Secretary removes 34 CFR part 9.

[FR Doc. 2021–20992 Filed 9–28–21; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2021–0474; FRL–8755–02–R7]

Air Plan Approval; Missouri; Control of Emissions From Batch Process Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) for the State of Missouri. This final action will amend the SIP to incorporate revisions to Missouri's rule related to control of emissions from batch process operations. These revisions update references to the appropriate State rule for New Source Performance Regulations. These revisions are administrative in nature and do not reduce the stringency of the SIP or have an adverse impact to air quality. The EPA's approval of this rule revision is being done in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on October 29, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2021–0474. 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, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Robert F. Webber, Environmental Protection Agency, Region 7 Office, Air Permitting and Standards Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7251; email address: *webber.robert@epa.gov.*

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

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II. Have the requirements for approval of a SIP revision been met?
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I. What is being addressed in this document?

The EPA is approving revisions to the Missouri SIP received on January 19, 2021. The revisions are to Title 10, Division 10 of the Code of State Regulations (CSR), 10 CSR 10–5.540 ''Control of Emissions From Batch Process Operations'' which limits the volatile organic compound (VOC) emissions from batch process operations by incorporating reasonably available control technology (RACT) requirements in the St. Louis 1997 ozone nonattainment area as required by the Clean Air Act Amendments (CAAA) of 1990. These revisions remove references to State rule 10 CSR 10–6.030, ''Sampling Methods for Air Pollution Sources,'' and replaces them with references to 10 CSR 10–6.070, ''New Source Performance Regulations,'' where the new source performance standards in 40 CFR part 60 are appropriately incorporated by reference. These revisions are described in detail in the technical support document (TSD) included in the docket for this action.

The public comment period on the EPA's proposed rule opened August 9, 2021, the date of its publication in the **Federal Register** and closed on September 8, 2021 (86 FR 43459). During this period, the EPA received no comments. The EPA is finalizing approval of the revisions to this rule because it meets the requirements of the Clean Air Act and will not have a negative impact on air quality.

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

The State's submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The state provided public notice on this SIP revision from December 16, 2019, to February 6, 2020 and received no comments. As explained in the EPA's proposed rule and in the TSD included in the docket, the revisions meet the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

III. What action is the EPA taking?

The EPA is taking final action to amend the Missouri SIP by approving the State's request to revise 10 CSR 10–5.540, ''Control of Emissions from Batch Process Operations.'' The EPA received no comments on the revisions detailed in the EPA's proposed rule and the TSD contained in the docket for this action. The EPA did not solicit comments on existing rule text that has been previously approved by the EPA into the SIP.

IV. Incorporation by Reference

In this document, 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 Missouri Regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 7 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

Therefore, these materials have been approved by the EPA for inclusion in the State Implementation Plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[1]

V. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where 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. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States

[1] 62 FR 27968, May 22, 1997.

Court of Appeals for the appropriate circuit by November 29, 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, Volatile organic compounds.

Dated: September 22, 2021.

Edward H. Chu,

Acting Regional Administrator, Region 7.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart AA—Missouri

■ 2. In § 52.1320, the table in paragraph (c) is amended by revising the entry ''10–5.540'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area				
*	*	*	*	*
10–5.540	Control of Emissions From Batch Process Operations.	7/30/2020	9/29/2021, [insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2021–21032 Filed 9–28–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2017–0583; EPA–R05–OAR–2019–0311; EPA–R05–OAR–2020–0501; FRL–9056–02–R5]

Air Plan Approval; Illinois; Infrastructure SIP Requirements for the 2012 $PM_{2.5}$ and 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of a State Implementation Plan (SIP) revision submitted by the State of Illinois regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 $PM_{2.5}$ and 2015 ozone National Ambient Air Quality Standards (NAAQS). Additionally, EPA is approving the infrastructure requirements related to Prevention of Significant Deterioration (PSD) for previous NAAQS. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: This direct final rule will be effective November 29, 2021, unless EPA receives adverse comments by October 29, 2021. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2017–0583 (for $PM_{2.5}$), EPA–R05–OAR–2019–0311 (for ozone), or EPA–R05–OAR–2020–0501 (for PSD) at *https://www.regulations.gov* or via email to *arra.sarah@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Olivia Davidson, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental

Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0266, *davidson.olivia@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

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

I. What is the background of this SIP submission?
II. What is EPA's analysis of this SIP submission?
III. Applicability of PSD Requirements
IV. What action is EPA taking?
V. Statutory and Executive Order Reviews

I. What is the background of this SIP submission?

In this rulemaking, EPA is approving most elements of the September 29, 2017, and May 16, 2019, and September 22, 2020, submissions from the Illinois Environmental Protection Agency (IEPA) intended to address all applicable infrastructure requirements for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS, respectively.

Whenever EPA promulgates a new or revised NAAQS, CAA section 110(a)(1) requires states to make SIP submissions to provide for the implementation, maintenance, and enforcement of the NAAQS. This type of SIP submission is commonly referred to as an ''infrastructure SIP.'' These submissions must meet the various requirements of CAA section 110(a)(2), as applicable. Due to ambiguity in some of the language of the CAA section 110(a)(2), EPA believes that it is appropriate to interpret these provisions in the specific context of action on infrastructure SIP submissions. EPA has previously provided comprehensive guidance on the application of these provisions through our September 13, 2013, Infrastructure SIP Guidance and through regional actions on infrastructure submissions (EPA's 2013 Guidance).[1] Unless otherwise noted below, we are following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, EPA evaluates the submitting state's SIP for facial compliance with statutory and regulatory requirements, not for the state's implementation of its SIP.[2] EPA has other authority to address any issues concerning a state's implementation of the rules, regulations, consent orders, etc. that comprise its SIP.

II. What is EPA's analysis of this SIP submission?

Pursuant to section 110(a), states must provide reasonable notice and opportunity for public hearing for all infrastructure SIP submissions. On June 23, 2017, and November 16, 2018, IEPA opened 30-day comment and request for public hearing periods for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS, respectively. No requests for a public hearing were received during the comment periods. IEPA did not receive comments on portions of the submission on which EPA is acting. Comments were received on IEPA's PSD permitting program, which has recently been approved by EPA on September 9, 2021 (86 FR 50459).

Illinois provided a detailed synopsis of how various components of its SIP meet each of the applicable requirements in section 110(a)(2) for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS, as applicable. The following review evaluates the state's submissions.

A. Section 110(a)(2)(A)—Emission Limits and Other Control Measures

This section requires SIPs to include enforceable emission limitations and other control measures, means or techniques, as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable CAA requirements. Section 110(a)(2)(A) does not require that states submit regulations or emission limits specifically for attaining the 2012 $PM_{2.5}$ and 2015 ozone NAAQS. Those SIP provisions are due as part of each state's attainment plan, and will be addressed separately from the requirements of section 110(a)(2)(A).[3] In the context of an infrastructure SIP, EPA is not evaluating the existing SIP provisions for this purpose. Instead, EPA is only evaluating whether the State's SIP has basic structural provisions for the implementation of the NAAQS.

The Illinois Environmental Protection Act is contained in chapter 415, section 5, of the Illinois Compiled Statutes (415 ILCS 5). 415 ILCS 5/4 provides IEPA with the authority to develop rules and regulations necessary to meet ambient air quality standards. Additionally, the Illinois Pollution Control Board (IPCB) was created under 415 ILCS 5, providing the IPCB with the authority to develop rules and regulations necessary to promote the purposes of the Illinois Environmental Protection Act. The IPCB ensures compliance with required laws and other elements of the State's attainment plan that are necessary to attain the NAAQS, and to comply with the requirements of the CAA (415 ILCS 5/10).

EPA's 2013 Guidance states that to satisfy section 110(a)(2)(A) requirements, ''an air agency's submission should identify existing EPA-approved SIP provisions or new SIP provisions that the air agency has adopted and submitted for EPA approval that limit emissions of pollutants relevant to the subject NAAQS, including precursors of the relevant NAAQS pollutant where applicable.'' As identified by IEPA, Title 35 of the Illinois Administrative Code (IAC) Parts 202, 212, 214, 215, 217, 218, 219, and 225, contain SIP-approved emission standards and limitations for sulfur dioxide (SO_2), nitrogen oxides (NO_X), volatile organic materials (VOMs), and ammonia (NH_3), precursors of $PM_{2.5}$ and ozone. We believe that IEPA has the necessary components contained in Title 35 of the IAC to comply with the 2015 NAAQS ozone and 2012 $PM_{2.5}$ standard. In this rulemaking, EPA is not incorporating into Illinois' SIP any new provisions in Illinois' State rules that have not been previously approved by EPA. EPA is also not approving or disapproving any existing State provisions or rules related to start-up, shutdown or malfunction, or director's discretion in the context of section 110(a)(2)(A). EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(A) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

[1] EPA discusses these ambiguities and elaborates on its approach to address them in our September 13, 2013 Infrastructure SIP Guidance (available at *https://www3.epa.gov/airquality/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf*), as well as in numerous agency actions, including EPA's prior action on Minnesota's infrastructure SIP to address the 2008 ozone, 2010 nitrogen dioxide (NO2), 2010 sulfur dioxide (SO_2), and 2012 fine particulate matter ($PM_{2.5}$) NAAQS (80 FR 63436, October 20, 2015).

[2] *See Montana Env't Info Ctr.* v. *Thomas*, 902 F.3d 971 (9th Cir. 2018).

[3] *See, e.g.,* EPA's final rule on ''National Ambient Air Quality Standards for Lead.'' 73 FR 66964, 67034 (Nov. 12, 2008).

B. Section 110(a)(2)(B)—Ambient Air Quality Monitoring/Data System

This section requires SIPs to provide for establishing and operating ambient air quality monitors, collecting and analyzing ambient air quality data, and, upon request, to make these data available to EPA. EPA's 2013 Guidance states that submission of annual monitoring network plans consistent with EPA's ambient air monitoring regulations at 40 CFR 58.10 is one way of satisfying a state's obligations under section 110(a)(2)(B). EPA's review of a state's annual monitoring plan includes EPA's determination that the state: (i) Monitors air quality at appropriate locations throughout the state using EPA-approved Federal Reference Methods or Federal Equivalent Method monitors; (ii) submits data to EPA's Air Quality System (AQS) in a timely manner; and (iii) provides EPA Regional Offices with prior notification of any planned changes to monitoring sites or the network plan.

In accordance with 40 CFR parts 53 and 58, IEPA continues to operate an air monitoring network that is used to determine compliance with the NAAQS. The provision at 415 ILCS 5/4 grants IEPA the authority to implement and administer the monitoring network. Furthermore, IEPA submits yearly monitoring network plans to EPA, and EPA approved the 2021 Annual Air Monitoring Network Plan on October 22, 2020.[4] Monitoring data from IEPA are entered into AQS in a timely manner, and the state provides EPA with prior notification when changes to its monitoring network or plan are being considered. IEPA publishes an annual report for the coming year on the Agency's website and provides for public comment. EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(B) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

C. Section 110(a)(2)(C)—Program for Enforcement of Control Measures; Minor NSR; PSD

This section requires SIPs to set forth a program providing for enforcement of all SIP measures, and the regulation of construction of new and modified stationary sources to meet New Source Review (NSR) requirements under PSD and Nonattainment NSR (NNSR) programs. Part C of the CAA (sections 160–169B) addresses PSD, while part D of the CAA (sections 171–193) addresses NNSR requirements. EPA's 2013 Guidance states that the NNSR requirements of section 110(a)(2)(C) are generally outside the scope of infrastructure SIPs; however, a state must provide for regulation of minor sources and minor modifications (minor NSR).

1. Program for Enforcement of Emission Limitations and Control Measures

A state's infrastructure SIP submission should identify the statutes, regulations, or other provisions in the SIP that provide for enforcement of emission limits and control measures.

IEPA's Bureau of Air (BOA) includes a Compliance Section and Division of Legal Counsel, which conduct enforcement of emission limits and consult with IEPA on enforcement actions, including enforcement of minor NSR, PSD, and nonattainment NSR construction and operating permits. The provision at 415 ILCS 5/4 provides the Director of IEPA with the authority to implement and administer this enforcement program. The provisions at 415 ILCS 5/30 and 5/31 further grant IEPA the authority to implement and administer the enforcement program through investigations, complaints and notices of violation, and hearings. EPA finds that Illinois has met the program for enforcement of emission limitations and control measures requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

2. Minor NSR

An infrastructure SIP submission should identify the existing EPA-approved SIP provisions that govern the minor source pre-construction program that regulates emissions of the relevant NAAQS pollutant.

EPA approved Illinois' minor NSR program on May 31, 1972 (37 FR 10862). Since this date, IEPA and EPA have relied on the existing minor NSR program at 415 ILCS 5/9 and 5/39 to ensure that new and modified sources not captured by the major NSR permitting programs do not interfere with attainment and maintenance of the 2012 $PM_{2.5}$ and 2015 ozone NAAQS. EPA finds that Illinois has met the minor NSR requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ and 2015 ozone $PM_{2.5}$ NAAQS.

3. PSD

The evaluation of each state's submission addressing the PSD requirements of section 110(a)(2)(C) covers: (i) PSD provisions that explicitly identify NO_X as a precursor to ozone in the PSD program; (ii) identification of precursors to $PM_{2.5}$[5] and the identification of $PM_{2.5}$ and PM_{10}[6] condensables in the PSD program; (iii) $PM_{2.5}$ increments in the PSD program; and (iv) greenhouse gas (GHG) permitting and the ''Tailoring Rule'' in the PSD program.[7]

Previously, PSD permits in Illinois have been issued under a Federal Implementation Plan (FIP) incorporating 40 CFR 52.21. Since April 7, 1980, IEPA has issued PSD permits under a delegation agreement with EPA that authorizes IEPA to implement the FIP (January 29, 1981, 46 FR 9580). Under a November 16, 1981 amendment to the 1980 Delegation Agreement, IEPA also had the authority to amend or revise any PSD permit issued by EPA under the FIP. *See* 86 FR 22372, 22373 (Apr. 28, 2021). On September 22, 2020, IEPA submitted to EPA a request to revise the Illinois SIP to establish a SIP-approved PSD program in Illinois. IEPA requested that EPA incorporate into the SIP Title 35 IAC Part 204 containing the new PSD program, and revisions to Parts 252 and 203. The request was approved on September 9, 2021 (86 FR 50459), and addressed comments received during EPA's public comment period. IEPA continues to have the authority under State law to issue PSD permits. Consistent with the Illinois Environmental Policy Act, 35 IAC 204.820 and 204.850 require that a source may construct or operate any source or modification subject to PSD permitting only after obtaining an approval to construct or PSD permit. IEPA may rescind such PSD permit under 35 IAC 204.1340.

Some PSD requirements under section 110(a)(2)(C) overlap with elements of section 110(a)(2)(D)(i) and section 110(a)(2)(J). These links are discussed in the appropriate areas below.

[4] *https://www2.illinois.gov/epa/topics/air-quality/outdoor-air/air-monitoring/Documents/2021%20Network%20Plan.pdf.*

[5] $PM_{2.5}$ refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, also referred to as ''fine'' particles.

[6] PM_{10} refers to particles with an aerodynamic diameter of less than or equal to 10 micrometers.

[7] In EPA's April 28, 2011, proposed rulemaking for infrastructure SIPs for the 1997 ozone and $PM_{2.5}$ NAAQS, we stated that each state's PSD program must meet applicable requirements for evaluation of all regulated NSR pollutants in PSD permits (76 FR 23757 at 23760). This view was reiterated in EPA's August 2, 2012, proposed rulemaking for infrastructure SIPs for the 2006 $PM_{2.5}$ NAAQS (77 FR 45992 at 45998). In other words, if a state lacks provisions needed to adequately address NO_X as a precursor to ozone, $PM_{2.5}$ precursors, $PM_{2.5}$ and PM_{10} condensables, $PM_{2.5}$ increments, or the Federal GHG permitting thresholds, the provisions of section 110(a)(2)(C) requiring a suitable PSD permitting program must be considered not to be met irrespective of the NAAQS that triggered the requirement to submit an infrastructure SIP, including the 2015 ozone and 2012 PM 2.5 NAAQS.

a. PSD Provisions That Explicitly Identify NO_X as a Precursor to Ozone in the PSD Program

EPA's ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline'' (Phase 2 Rule) was published on November 29, 2005 (70 FR 71612). Among other requirements, the Phase 2 Rule obligated states to revise their PSD programs to explicitly identify NO_X as a precursor to ozone (see 70 FR at 71679, 71699–71704). This requirement was codified at 40 CFR 51.166.[8]

The Phase 2 Rule required that states submit SIP revisions incorporating the requirements of the rule, including the provisions specific to NO_X as a precursor to ozone, by June 15, 2007 (see 70 FR at 71683).

On September 9, 2021 (86 FR 50459), EPA approved 35 IAC Part 204 into Illinois' SIP to fully satisfy the requirements of CAA section 110(a)(2)(C) regarding NO_X as a precursor to ozone. Specifically, 35 IAC 204.610(a)(2)(A) establishes NO_X and VOM as precursors to ozone in all attainment and unclassifiable areas. EPA therefore finds that Illinois has met this set of infrastructure SIP requirements of CAA section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

b. Identification of Precursors to $PM_{2.5}$ and the Identification of $PM_{2.5}$ and PM_{10} Condensables in the PSD Program

On May 16, 2008 (73 FR 28321), EPA issued the final rule on the ''Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers ($PM_{2.5}$)'' (2008 NSR Rule). The 2008 NSR Rule finalized several new requirements for SIPs to address sources that emit direct $PM_{2.5}$ and other pollutants that contribute to secondary $PM_{2.5}$ formation. One of these requirements is for NSR permits to address pollutants responsible for the secondary formation of $PM_{2.5}$, otherwise known as precursors. In the 2008 rule, EPA identified precursors to $PM_{2.5}$ for the PSD program to be SO_2 and NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The 2008 NSR Rule also specifies that volatile organic compounds (VOCs) are not considered to be precursors to $PM_{2.5}$ in the PSD program unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that emissions of VOCs in an area are significant contributors to that area's ambient $PM_{2.5}$ concentrations.

The explicit references to SO_2, NO_X, and VOCs as they pertain to secondary $PM_{2.5}$ formation are codified at 40 CFR 51.166(b)(49)(i)(*b*) and 40 CFR 52.21(b)(50)(i)(*b*). As part of identifying pollutants that are precursors to $PM_{2.5}$, the 2008 NSR Rule also required states to revise the definition of ''significant'' as it relates to a net emissions increase or the potential of a source to emit pollutants. Specifically, 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i) define ''significant'' for $PM_{2.5}$ to mean the following emissions rates: 10 tons per year (tpy) of direct $PM_{2.5}$; 40 tpy of SO_2; and 40 tpy of NO_X (unless the state demonstrates to the Administrator's satisfaction or EPA demonstrates that NO_X emissions in an area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations). The deadline for states to submit SIP revisions to their PSD programs incorporating these changes was May 16, 2011 (*see* 73 FR 28321 at 28341, May 16, 2008).[9]

The 2008 NSR Rule did not require states to immediately account for gases that could condense to form particulate matter, known as condensables, in $PM_{2.5}$ and PM_{10} emission limits in NSR permits. Instead, EPA determined that states had to account for $PM_{2.5}$ and PM_{10} condensables for applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits beginning on or after January 1, 2011. This requirement is codified in 40 CFR 51.166(b)(49)(i)(*a*) and 40 CFR 52.21(b)(50)(i)(*a*). Revisions to states' PSD programs incorporating the inclusion of condensables were due to EPA by May 16, 2011 (*see* 73 FR at 28341).

As previously mentioned, EPA approved 35 IAC Part 204 into the SIP on September 9, 2021 (86 FR 50459), to fully satisfy the requirements of CAA section 110(a)(2)(C) regarding identification of precursors to $PM_{2.5}$ and the identification of $PM_{2.5}$ and PM_{10} condensables. Specifically, 35 IAC 204.610(a)(2)(C)–(D) establishes SO_2 as a precursor to $PM_{2.5}$ in all attainment and unclassifiable areas, NO_X as a presumed precursor to $PM_{2.5}$ in all attainment and unclassifiable areas unless an EPA-approved demonstration of insignificant contribution is provided, and VOM not to be a precursor to $PM_{2.5}$ unless, similarly, an approved demonstration is provided. The provision at 35 IAC 204.610(a)(1) provides for the requirement of condensable PM to be included in applicability determinations and in establishing emission limitations for PM in PSD permits. EPA therefore finds that Illinois has met this set of infrastructure SIP requirements of CAA section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

c. $PM_{2.5}$ Increments in the PSD Program

On October 20, 2010 (75 FR 64864), EPA issued the final rule on the ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC)'' (2010 NSR Rule). This rule established several components for making PSD permitting determinations for $PM_{2.5}$, including a system of ''increments'' which is the mechanism used to estimate significant deterioration of ambient air quality for a pollutant. These increments are codified in 40 CFR 51.166(c) and 40 CFR 52.21(c), and are included in the table below.

[8] Similar changes were codified in 40 CFR 52.21.

[9] EPA notes that on January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit held that EPA should have issued the 2008 NSR Rule in accordance with the CAA's requirements for PM_{10} nonattainment areas (Title I, part D, subpart 4), and not the general requirements for nonattainment areas under subpart 1. *See Nat. Res. Def. Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013). As the subpart 4 provisions apply only to nonattainment areas, EPA does not consider the portions of the 2008 rule that address requirements for $PM_{2.5}$ attainment and unclassifiable areas to be affected by the court's opinion. Moreover, EPA does not anticipate the need to revise any PSD requirements promulgated by the 2008 NSR rule in order to comply with the court's decision. Accordingly, EPA's approval of Illinois' infrastructure SIP as to elements (C), (D)(i)(II), or (J) with respect to the PSD requirements promulgated by the 2008 NSR Rule does not conflict with the court's opinion.

The court's decision with respect to the nonattainment NSR requirements promulgated by the 2008 NSR Rule also does not affect EPA's action on the present infrastructure action. EPA interprets the CAA to exclude nonattainment area requirements, including requirements associated with a nonattainment NSR program, from infrastructure SIP submissions due three years after adoption or revision of a NAAQS. Instead, these elements are typically referred to as nonattainment SIP or attainment plan elements, which would be due by the dates statutorily prescribed under subpart 2 through 5 under part D, extending as far as 10 years following designations for some elements.

TABLE 1—$PM_{2.5}$ INCREMENTS ESTABLISHED BY THE 2010 NSR RULE IN MICROGRAMS PER CUBIC METER

	Annual arithmetic mean	24-Hour max
Class I	1	2
Class II	4	9
Class III	8	18

The 2010 NSR Rule also established a new ''major source baseline date'' for $PM_{2.5}$ as October 20, 2010, and a new trigger date for $PM_{2.5}$ as October 20, 2011. These revisions are codified in 40 CFR 51.166(b)(14)(i)(*c*) and (b)(14)(ii)(*c*) and 40 CFR 52.21(b)(14)(i)(*c*) and (b)(14)(ii)(*c*). Lastly, the 2010 NSR Rule revised the definition of ''baseline area'' to include a level of significance of 0.3 micrograms per cubic meter, annual average, for $PM_{2.5}$. This change is codified in 40 CFR 51.166(b)(15)(i) and 40 CFR 52.21(b)(15)(i).

As previously mentioned, EPA approved 35 IAC Part 204 into the SIP on September 9, 2021 (86 FR 50459), to fully satisfy the requirements of CAA section 110(a)(2)(C) regarding $PM_{2.5}$ increments. Specifically, 35 IAC 204.900 establishes ambient air increments by Class identical to the 2010 NSR Rule. EPA therefore finds that Illinois has met this set of infrastructure SIP requirements of CAA section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

d. GHG Permitting and the ''Tailoring Rule'' in the PSD Program

With respect to the requirements of section 110(a)(2)(C) as well as section 110(a)(2)(J), EPA interprets the CAA to require each state to make an infrastructure SIP submission for a new or revised NAAQS that demonstrates that the air agency has a complete PSD permitting program meeting the current requirements for all regulated NSR pollutants. The requirements of section 110(a)(2)(D)(i)(II) may also be satisfied by demonstrating that the air agency has a complete PSD permitting program correctly addressing all regulated NSR pollutants. As discussed below, Illinois has shown that it currently has a PSD program in place that covers all regulated NSR pollutants, including GHGs.

On June 23, 2014, the United States Supreme Court issued a decision addressing the application of PSD permitting requirements to GHG emissions. *Util. Air Regul. Grp.* v. *EPA,* 573 U.S. 302, 134 S. Ct. 2427 (2014). The Supreme Court said that EPA may not treat GHGs as an air pollutant for purposes of determining whether a source is a major source required to obtain a PSD permit. The Court also said that EPA could continue to require that PSD permits, otherwise required based on emissions of pollutants other than GHGs, contain limitations on GHG emissions based on the application of Best Available Control Technology (BACT).

In accordance with the Court's decision, on April 10, 2015, the U.S. Court of Appeals for the D.C. Circuit (the D.C. Circuit) issued an amended judgment vacating the regulations that implemented Step 2 of EPA's PSD and Title V Greenhouse Gas Tailoring Rule, but not the regulations that implement Step 1 of that rule. *Coal. For Responsible Regul., Inc.* v. *EPA,* 606 F. App'x 6 (D.C. Cir. 2015). Step 1 of the Tailoring Rule covers sources that are required to obtain a PSD permit based on emissions of pollutants other than GHGs. Step 2 applied to sources that emitted only GHGs above the thresholds triggering the requirement to obtain a PSD permit. The amended judgment preserves, without the need for additional rulemaking by EPA, the application of the BACT requirement to GHG emissions from Step 1 or ''anyway'' sources. With respect to Step 2 sources, the D.C. Circuit's amended judgment vacated the regulations at issue in the litigation, including 40 CFR 51.166(b)(48)(v), ''to the extent they require a stationary source to obtain a PSD permit if greenhouse gases are the only pollutant (i) that the source emits or has the potential to emit above the applicable major source thresholds, or (ii) for which there is a significant emission increase from a modification.''

EPA is planning to take additional steps to revise Federal PSD rules to address the Supreme Court's opinion and subsequent D.C. Circuit's ruling. Some states have begun to revise their existing SIP-approved PSD programs in light of these court decisions, and some states may prefer not to initiate this process until they have more information about the planned revisions to EPA's PSD regulations. EPA is not expecting states to have revised their PSD programs in anticipation of EPA's planned actions to revise its PSD program rules in response to the court decisions. For purposes of infrastructure SIP submissions, EPA is only evaluating such submissions to assure that the State's program addresses GHGs consistent with both court decisions.

At present, EPA has determined the Illinois SIP is sufficient to satisfy CAA sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), and 110(a)(2)(J) with respect to GHGs. IEPA's PSD permitting program approved by EPA into the SIP on September 9, 2021 (86 FR 50459), contains provisions at 35 IAC 204.700 stating GHGs are subject to regulation. Additionally, 35 IAC 204.430 defines GHGs, 35 IAC 204.660 establishes significance thresholds, and 35 IAC Part 204, Subpart K establish Plantwide Applicability Limitations. Further, 35 IAC 204.490 and 204.510 specify that for major modifications and major stationary sources, significant net emission increase requirements apply to regulated NSR pollutants other than GHGs, and 35 IAC 204.1100 establishes requirements for major stationary sources and major modifications, including the application of BACT, for each regulated NSR pollutant. Hence, IEPA's approved PSD program continues to require that PSD permits issued to ''anyway sources'' contain limitations on GHG emissions based on the application of BACT. EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

D. Section 110(a)(2)(D)—Interstate Transport

Section 110(a)(2)(D) has two components: 110(a)(2)(D)(i) and 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as ''prongs,'' that must be addressed in infrastructure SIP submissions. The first two prongs, which are codified in section 110(a)(2)(D)(i)(I), prohibit any source or other type of emissions activity in one state from contributing significantly to nonattainment of the NAAQS in another state (prong 1) and from interfering with maintenance of the NAAQS in another state (prong 2). The third and fourth prongs, which are codified in section 110(a)(2)(D)(i)(II), prohibit emissions activity in one state from interfering with measures required to prevent significant deterioration of air quality in another state (prong 3) or from interfering with measures to protect visibility in another state (prong 4).

Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of CAA section 126 and section 115 (relating to interstate and international pollution abatement, respectively).

1. Significant Contribution to Nonattainment

EPA previously approved Illinois' good neighbor provisions on June 20, 2019 (84 FR 28745), regarding $PM_{2.5}$. Comments received were addressed in the referenced approval document. EPA

finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS.

Further, in this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(I) requirements relating to significant contribution to nonattainment for the 2015 ozone NAAQS. Instead, EPA will evaluate these requirements in a separate rulemaking.

2. Interference With Maintenance

EPA previously approved Illinois' good neighbor provisions on June 20, 2019 (84 FR 28745), regarding $PM_{2.5}$. EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(C) with respect to the 2012 $PM_{2.5}$ NAAQS.

Further, in this rulemaking, EPA is not evaluating section 110(a)(2)(D)(i)(I) requirements relating to significant contribution to nonattainment for the 2015 ozone NAAQS. Instead, EPA will evaluate these requirements in a separate rulemaking.

3. Interference With PSD

Illinois' satisfaction of the applicable infrastructure SIP PSD requirements has been detailed in the discussion of CAA section 110(a)(2)(C) above. The findings in that discussion related to PSD are consistent with the findings related to PSD for CAA section 110(a)(2)(D)(i)(II) stated below.

EPA previously disapproved revisions to Illinois' SIP to meet certain requirements obligated by the Phase 2 Rule and the 2008 NSR Rule. *See 77* FR 65478 (Oct. 29, 2012), 79 FR 62042 (Oct. 16, 2014). The proposed revisions had included provisions that explicitly identify NO_X as a precursor to ozone, explicitly identify SO_2 and NO_X as precursors to $PM_{2.5}$, regulate condensable $PM_{2.5}$ and PM_{10} in applicability determinations, regulate condensable $PM_{2.5}$ and PM_{10} in applicability determinations for purposes of establishing emission limits, and incorporate the $PM_{2.5}$ increments and the associated implementation regulations, including the major source baseline date, trigger date, and level of significance for $PM_{2.5}$, as required by the 2010 NSR Rule. However, Illinois had no further obligations to EPA because federally promulgated rules, promulgated at 40 CFR 52.21 were in effect in the State. *See id.* As previously mentioned, EPA has approved a state PSD program in Illinois to satisfy the referenced requirements of the 2008 and 2010 NSR Rules (86 FR 50459, September 9, 2021). Therefore, EPA finds that Illinois' SIP contains provisions that adequately address the infrastructure requirements for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

States also have an obligation to ensure that sources located in nonattainment areas do not interfere with a neighboring state's PSD program. This requirement can be satisfied through an NNSR program consistent with the CAA that addresses any pollutants for which there is a designated nonattainment area within the state.

Illinois' EPA-approved NNSR regulations are contained in 35 IAC Part 203 and are consistent with 40 CFR 51.165 (60 FR 27411, May 24, 1995). IEPA recently amended 35 IAC Part 203 to update the provisions in this regulation that refer to permits issued under 40 CFR 52.21 to refer to permits issued under 40 CFR 52.21 (IEPA's previous FIP for issuing PSD permits) or 35 IAC 204, Illinois' new regulation for a state PSD permitting program as previously mentioned. Therefore, EPA finds that Illinois has met all the applicable PSD requirements for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

4. Interference With Visibility Protection

In this rulemaking, EPA is not approving or disapproving Illinois' satisfaction of the visibility protection requirements of section 110(a)(2)(D)(i)(II), transport prong 4, for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS. Instead, EPA will evaluate Illinois' compliance with these requirements in a separate rulemaking.

5. Interstate and International Pollution Abatement

Section 110(a)(2)(D)(ii) requires each SIP to contain adequate provisions requiring compliance with the applicable requirements of section 126 and section 115 (relating to interstate and international pollution abatement, respectively).

Section 126(a) requires new or modified sources to notify neighboring states of potential impacts from the source. The statute does not specify the method by which the source should provide the notification. States with SIP-approved PSD programs must have a provision requiring such notification by new or modified sources. A lack of such a requirement in state rules would be grounds for disapproval of this element.

Illinois has provisions in its recently SIP-approved PSD program in 35 IAC 252.201 requiring new or modified sources to notify neighboring states of potential negative air quality impacts and has referenced this program as having adequate provisions to meet the requirements of CAA section 126(a). Illinois does not have obligations under any other subsection of CAA section 126, nor does it have any pending obligations under CAA section 115. Therefore, EPA finds that Illinois has met all applicable infrastructure SIP requirements of CAA section 110(a)(2)(D)(ii) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

E. Section 110(a)(2)(E)—Adequate Resources; State Board Requirements

This section requires each state to provide for adequate personnel, funding, and legal authority under state law to carry out its SIP, and related issues. Section 110(a)(2)(E)(ii) also requires each state to comply with the requirements respecting state boards under section 128.

1. Adequate Resources

To satisfy the adequate resources requirements of section 110(a)(2)(E), the state should provide assurances that its air agency has adequate resources, personnel, and legal authority to implement the relevant NAAQS. IEPA's Performance Partnership Agreement [10] with EPA provides IEPA's assurances of resources to carry out certain air programs. The provision at 415 ILCS 5/4 provides IEPA with the authority to develop rules and regulations necessary to meet ambient air quality standards. Additionally, the IPCB was created under 415 ILCS 5, providing the IPCB with the authority to develop rules and regulations necessary to promote the purposes of the Illinois Environmental Policy Act. The IPCB helps ensure compliance with required laws and other elements of the State's attainment plan that are necessary to attain the NAAQS, and to comply with the requirements of the CAA (415 ILCS 5/10). Further, as of fiscal year 2020, Illinois has satisfactorily completed its air program obligations as called for under the CAA section 105 grant, including meeting specific measures related to NSR program implementation and maintenance of an EPA-approved statewide air quality surveillance network required by section 110(a)(2)(B) of the CAA. IEPA states that it currently has nine full time construction permit engineers that perform construction permit activities, and that it has an adequate revenue stream from permit fees to support such activities. Therefore, EPA finds that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(E)

[10] *https://www2.illinois.gov/epa/about-us/Pages/performance-partnership-agreement.aspx.*

with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

2. State Board Requirements

Section 110(a)(2)(E) also requires each SIP to set forth provisions that comply with the state board requirements of section 128 of the CAA. Specifically, this section contains two explicit requirements: (i) That any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits and enforcement orders under this chapter, and (ii) that any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed. Further, under section 128(a)(2), the head of the executive agency with the power to approve permits or enforcement orders must adequately disclose any potential conflicts of interest.

On January 25, 2018, IEPA submitted 35 IAC 101.112(d) for incorporation into the SIP, pursuant to section 128 of the CAA. This rule applies to the IPCB which has the authority to approve permits and enforcement orders. The language found in 35 IAC 101.112(d) is identical to the language in CAA section 128 and was approved into the SIP on September 23, 2019 (84 FR 50459). Therefore, EPA finds that Illinois has satisfied the applicable infrastructure SIP requirements for this section of 110(a)(2)(E) for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

F. Section 110(a)(2)(F)—Stationary Source Monitoring System

Section 110(a)(2)(F) contains several requirements, each of which are described below.

States must establish a system to monitor emissions from stationary sources and submit periodic emissions reports. Each SIP shall also require the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources. The state plan shall also require periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and correlation of such reports by each state agency with any emission limitations or standards established pursuant to the CAA. Lastly, the reports shall be available at reasonable times for public inspection.

IEPA requires regulated sources to submit various reports, dependent on applicable requirements and the type of permit issued to the source. These reports are submitted to the BOA's Compliance Unit for review, and all reasonable efforts are made by IEPA to maximize the effectiveness of available resources to review the required reports (415 ILCS 5/4, 5 and 10). EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(F) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

G. Section 110(a)(2)(G)—Emergency Powers

Section 110(a)(2)(G) requires the SIP to provide for an emergency powers authority analogous to that in section 303 of the CAA, and adequate contingency plans to implement such authority. EPA's 2013 Guidance states that infrastructure SIP submissions should specify authority, vested in an appropriate official, to restrain any source from causing or contributing to emissions which present an imminent and substantial endangerment to public health or welfare, or the environment.

Illinois has the necessary authority to address emergency episodes, and these provisions are contained in 415 ILCS 5/34. The provision at 415 ILCS 5/43(a) authorizes the IEPA to request a State's attorney from Illinois Attorney General's office to seek immediate injunctive relief in circumstances of substantial danger to the environment or to the public health of persons. EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(G) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

H. Section 110(a)(2)(H)—Future SIP Revisions

This section requires states to have the authority to revise their SIPs in response to changes in the NAAQS, to the availability of improved methods for attaining the NAAQS, or to an EPA finding that the SIP is substantially inadequate.

As previously mentioned, 415 ILCS 5/4 and 415 ILCS 5/10 provide the Director of IEPA, in conjunction with IPCB, with the authority to develop rules and regulations necessary to meet ambient air quality standards. Furthermore, they have the authority to respond to any EPA findings of inadequacy with the Illinois SIP program. EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(H) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

I. Section 110(a)(2)(I)—Nonattainment Planning Requirements of Part D

The CAA requires that each plan or plan revision for an area designated as a nonattainment area meet the applicable requirements of part D of the CAA. Part D relates to nonattainment areas.

EPA has determined that section 110(a)(2)(I) is not applicable to the infrastructure SIP process. Instead, EPA will take action on Illinois' part D attainment plans through separate processes.

J. Section 110(a)(2)(J)—Consultation With Government Officials; Public Notification; PSD; Visibility Protection

The evaluation of the submission from Illinois with respect to the requirements of section 110(a)(2)(J) are described below.

1. Consultation With Government Officials

States must provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements.

IEPA is required to give notice to the Office of the Attorney General and the Illinois Department of Natural Resources during the rulemaking process per 35 IAC Part 102. Furthermore, Illinois provides notice to reasonably anticipated stakeholders and interested parties, as well as to any FLM, if the rulemaking applies to Federal land which the FLM has authority over. Additionally, IEPA participates in the Lake Michigan Air Director's Consortium (LADCO), which consists of collaboration with EPA and the States of Indiana, Michigan, Minnesota, Ohio, and Wisconsin. IEPA also consults with Missouri through a process established in a Memorandum of Agreement. EPA finds that Illinois has satisfied the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

2. Public Notification

Section 110(a)(2)(J) also requires states to notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances. IEPA continues to collaborate with the Cook County Department of Environmental Control. This consists of continued and routine monitoring of air quality throughout the state and notifying the public when unhealthy air quality is measured or forecasted. IEPA actively populates EPA's AIRNOW program and distributes the information to interested

stakeholders such as Partners for Clean Air in Chicago, the Clean Air Partnership in St. Louis, and the Cook County Department of Environmental Control. The State maintains portions of its website specifically for air quality alerts,[11] and prepares annual data reports from its complete monitoring network and provides a daily air quality index to the public and media. Therefore, EPA finds that Illinois has met the infrastructure SIP requirements of this portion of section 110(a)(2)(J) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

3. PSD

States must meet applicable requirements of section 110(a)(2)(C) related to PSD. Illinois' PSD program in the context of infrastructure SIPs has already been discussed above in the paragraphs addressing section 110(a)(2)(C) and section 110(a)(2)(D)(i)(II), and EPA notes that the findings for those sections are consistent with the findings for this portion of section 110(a)(2)(J). Therefore, EPA finds that Illinois has met all the infrastructure SIP requirements for PSD associated with section 110(a)(2)(J) for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

4. Visibility Protection

States are subject to visibility and regional haze program requirements under part C of the CAA (which includes sections 169A and 169B). In the event of the establishment of a new NAAQS, however, the visibility and regional haze program requirements under part C do not change. Thus, we find that there is no new visibility obligation ''triggered'' under section 110(a)(2)(J) when a new NAAQS becomes effective. In other words, the visibility protection requirements of section 110(a)(2)(J) are not germane to infrastructure SIPs for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

K. Section 110(a)(2)(K)—Air Quality Modeling/Data

SIPs must provide for performance of air quality modeling to predict the effects on air quality from emissions of any NAAQS pollutant and the submission of such data to EPA upon request.

IEPA maintains the capability and authority to perform modeling of the air quality impacts of emissions of all criteria pollutants, including the capability to use complex photochemical grid models per 415 ILCS 5/4. This modeling is used in support of the SIP for all nonattainment areas in the state. IEPA also requires air quality modeling in support of permitting the construction of major and some minor new sources under the PSD program. These modeling data are available to EPA as well as the public upon request. Lastly, IEPA participates in LADCO, which conducts regional modeling that is used for statewide planning purposes. EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(K) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

L. Section 110(a)(2)(L)—Permitting Fees

This section requires SIPs to mandate each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit.

IEPA implements and operates the title V permit program, which EPA approved on December 4, 2001 (66 FR 62946), and the provisions, requirements, and structures associated with the costs for reviewing, approving, implementing, and enforcing various types of permits are contained in 415 ILCS 5/39.5. As previously mentioned, IEPA states that it currently has nine full time construction permit engineers that perform construction permit activities, and that it has an adequate revenue stream from permit fees to support such activities. Further, IEPA has increased BOA staffing and appropriation from 2019 to 2020, with projected increases continuing through 2021. EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(L) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

M. Section 110(a)(2)(M)—Consultation/Participation by Affected Local Entities

States must consult with and allow participation from local political subdivisions affected by the SIP.

All public participation procedures pertaining to IEPA are consistent with 35 IAC Part 164 (Procedures for Informational and Quasi-Legislative Public Hearings) and 35 IAC Part 252 (Public Participation in the Air Pollution Control Permit Program); the latter is an approved portion of Illinois' SIP. *See* 50 FR 38803 (June 1, 1984) and 86 FR 21207 (April 22, 2021). EPA finds that Illinois has met the infrastructure SIP requirements of section 110(a)(2)(M) with respect to the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.

III. Applicability of PSD Requirements

As previously mentioned, IEPA submitted to EPA a request on September 22, 2020, to revise the Illinois SIP to establish a SIP-approved PSD program in Illinois, replacing the previous FIP. IEPA requested that EPA incorporate into the SIP Title 35 IAC Part 204 containing the new PSD program, and revisions to 35 IAC Parts 252 and 203. The request was approved on September 9, 2021 (86 FR 50459), and addressed comments received during EPA's public comment period.

While this action primarily addresses the 2012 $PM_{2.5}$ and 2015 ozone NAAQS, EPA is approving several elements for the 1997 ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 ozone, 2008 lead, 2010 NO_2, and 2010 SO_2 NAAQS. Specifically, EPA is approving elements 110(a)(2)(C), (D) and (J) pertaining to PSD requirements. For 110(a)(2)(C), IEPA's new PSD program addresses: (i) PSD provisions that explicitly identify NO_X as a precursor to ozone in the PSD program; (ii) identification of precursors to $PM_{2.5}$ and the identification of $PM_{2.5}$ and PM_{10} condensables in the PSD program; (iii) $PM_{2.5}$ increments in the PSD program; and (iv) GHG permitting and the ''Tailoring Rule'' in the PSD program. IEPA's new PSD program also addresses the requirements under 110(a)(2)(D) to ensure that sources located in nonattainment areas do not interfere with a neighboring state's PSD program as well as meeting requirements relating to interstate and international pollution abatement. EPA notes that the findings for sections (C) and (D) are consistent with the findings for this portion of section 110(a)(2)(J). IEPA's satisfaction of these elements is discussed in the appropriate sections above. Because EPA is acting on the Illinois' submittal for a minimal quantity of the 110(a)(2) infrastructure elements for the referenced NAAQS, these elements are not included in the table in the following section, but are contained in the codification of this action. EPA finds that Illinois has met the infrastructure SIP requirements of sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J) pertaining to PSD requirements with respect to the 1997 ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 ozone, 2008 lead, 2010 NO_2, and 2010 SO_2 NAAQS.

IV. What action is EPA taking?

EPA is approving most elements of a submission from IEPA certifying that its current SIP is sufficient to meet the required infrastructure elements under sections 110(a)(1) and (2) for the 2012 $PM_{2.5}$ and 2015 ozone NAAQS.[12] The

[11] *https://www.epa.state.il.us/air/air-quality-menu.html.*

[12] EPA emphasizes that the recently approved PSD provisions discussed in 110(a)(2)(C), (D) and (J) are not limited to ozone and $PM_{2.5}$. *See*

Continued

table below summarizes EPA's actions on Illinois' submittal in satisfaction of the infrastructure SIP requirements pursuant to section 110(a)(2). Additionally, EPA is approving Illinois' submission as meeting the infrastructure SIP requirements of sections 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J) pertaining to PSD requirements with respect to the 1997 ozone, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, 2008 ozone, 2008 lead, 2010 NO_2, and 2010 SO_2 NAAQS.

Element	2012 $PM_{2.5}$	2015 Ozone
(A)—Emission limits and other control measures	A	A
(B)—Ambient air quality monitoring/data system	A	A
(C)1—Program for enforcement of control measures	A	A
(C)2—Minor NSR	A	A
(C)3—PSD	A	A
(D)1—I Prong 1: Interstate transport—significant contribution to nonattainment	PA	NA
(D)2—I Prong 2: Interstate transport—interference with maintenance	PA	NA
(D)3—II Prong 3: Interstate transport—interference with PSD	A	A
(D)4—II Prong 4: Interstate transport—interference with visibility protection	NA	NA
(D)5—Interstate and international pollution abatement	A	A
(E)1—Adequate resources	A	A
(E)2—State board requirements	A	A
(F)—Stationary source monitoring system	A	A
(G)—Emergency powers	A	A
(H)—Future SIP revisions	A	A
(I)—Nonattainment planning requirements of part D	*	*
(J)1—Consultation with government officials	A	A
(J)2—Public notification	A	A
(J)3—PSD	A	A
(J)4—Visibility protection	*	*
(K)—Air quality modeling/data	A	A
(L)—Permitting fees	A	A
(M)—Consultation/participation by affected local entities	A	A

In the above table, the key is as follows:

A	Approve
NA	No Action/Separate Rulemaking.
PA	Previously Approved.
D	Disapprove.
*	Not germane to infrastructure SIPs.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective November 29, 2021 without further notice unless we receive relevant adverse written comments by October 29, 2021. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective November 29, 2021.

V. Statutory and Executive Order Reviews

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

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

In addition, the SIP is not approved to apply on any Indian reservation land

Applicability of PSD requirements section above for more information on elements approved for the 1997 ozone, 2008 ozone, 2008 lead, 2010 NO_2, 1997 $PM_{2.5}$, 2006 $PM_{2.5}$, and 2010 SO_2 NAAQS.

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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.

Dated: September 22, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. In § 52.720, the table in paragraph (e) is amended under the heading ''Section 110(a)(2) Infrastructure Requirements'' by revising the entries for ''1997 8-hour Ozone NAAQS Infrastructure Requirements'', ''1997 $PM_{2.5}$ NAAQS Infrastructure Requirements'', ''2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Requirements'', ''2008 Lead NAAQS Infrastructure Requirements'', ''2008 Ozone NAAQS Infrastructure Requirements'', ''2010 NO_2 NAAQS Infrastructure Requirements'', ''2010 SO_2 NAAQS Infrastructure Requirements'', and ''2012 $PM_{2.5}$ NAAQS Infrastructure Requirements'' and adding an entry for ''2015 Ozone NAAQS Infrastructure Requirements'' at the end of the table to read as follows:

§ 52.720 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
*	*	*	*	*
Section 110(a)(2) Infrastructure Requirements				
1997 8-hour Ozone NAAQS Infrastructure Requirements.	Statewide	12/12/2007 and 9/22/2020	9/29/2021, [INSERT **Federal Register** CITATION].	All CAA infrastructure elements under 110(a)(2) have been approved except (D)(i)(I) [Prongs 1 and 2]. A FIP is in place for these elements.
1997 $PM_{2.5}$ NAAQS Infrastructure Requirements.	Statewide	12/12/2007 and 9/22/2020	9/29/2021, [INSERT **Federal Register** CITATION].	All CAA infrastructure elements under 110(a)(2) have been approved except (D)(i)(I) [Prongs 1 and 2]. A FIP is in place for these elements.
2006 24-hour $PM_{2.5}$ NAAQS Infrastructure Requirements.	Statewide	8/9/2011, supplemented on 8/25/2011, 6/27/2012, 7/5/2017 and 9/22/2020.	9/29/2021, [INSERT **Federal Register** CITATION].	All CAA infrastructure elements under 110(a)(2) have been approved except (D)(i)(I) [Prongs 1 and 2]. A FIP is in place for these elements.
2008 Lead NAAQS Infrastructure Requirements.	Statewide	12/31/2012, 7/5/2017 and 9/22/2020.	9/29/2021, [INSERT **Federal Register** CITATION].	All CAA infrastructure elements under 110(a)(2) have been approved.
2008 Ozone NAAQS Infrastructure Requirements.	Statewide	12/31/2012, 7/5/2017 and 9/22/2020.	9/29/2021, [INSERT **Federal Register** CITATION].	All CAA infrastructure elements under 110(a)(2) have been approved except (D)(i)(I) [Prongs 1 and 2]. A FIP is in place for these elements.
2010 NO_2 NAAQS Infrastructure Requirements.	Statewide	12/31/2012, 7/5/2017 and 9/22/2020.	9/29/2021, [INSERT **Federal Register** CITATION].	All CAA infrastructure elements under 110(a)(2) have been approved.

EPA-APPROVED ILLINOIS NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
2010 SO_2 NAAQS Infrastructure Requirements.	Statewide	12/31/2012, 7/5/2017 and 9/22/2020.	9/29/2021, [INSERT **Federal Register** CITATION].	All CAA infrastructure elements under 110(a)(2) have been approved except (D)(i)(I) [Prongs 1 and 2], which have not yet been submitted.
2012 $PM_{2.5}$ NAAQS Infrastructure Requirements.	Statewide	9/29/2017 and 9/22/2020	9/29/2021, [INSERT **Federal Register** CITATION].	All CAA infrastructure elements under 110(a)(2) have been approved.
2015 Ozone NAAQS Infrastructure Requirements.	Statewide	5/16/2019 and 9/22/2020	9/29/2021, [INSERT **Federal Register** CITATION].	All CAA infrastructure elements under 110(a)(2) have been approved except (D)(i)(I) Prongs 1, 2 and (D)(i)(II) Prong 4. No action has been taken on those elements.

[FR Doc. 2021–21027 Filed 9–28–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

[Docket DARS–2021–0019]

RIN 0750–AL46

Defense Federal Acquisition Regulation Supplement: Department of State Rescission of Determination Regarding Sudan (DFARS Case 2021–D027)

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

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to implement the December 14, 2020, rescission by the Department of State of the designation of Sudan as a state sponsor of terrorism.

DATES: Effective September 29, 2021.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Bass, telephone 703–372–6174.

SUPPLEMENTARY INFORMATION:

I. Background

This final rule implements the rescission by the Department of State of the designation of Sudan as a state sponsor of terrorism and the Department of State Public Notice: 11281, Rescission of Determination Regarding Sudan, announcing the removal of Sudan from the U.S. list of state sponsors of terrorism, effective December 14, 2020. The Department of State's action was based on the Presidential Report of October 26, 2020, to Congress, indicating the Administration's intent to rescind the designation of Sudan as a state sponsor of terrorism, including the certification that Sudan has not provided any support for international terrorism during the previous six months and that Sudan has provided assurance that it will not support acts of international terrorism in the future.

The Department of State's rescission also satisfies the provisions of section 620A(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(c)), section 40(f) of the Arms Export Control Act (22 U.S.C. 2780(f)), and, to the extent applicable, section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) and continued in effect by Executive Order (E.O.) 13222, as amended by E.O. 13637 of March 8, 2013.

Consistent with the December 14, 2020, action, Sudan is removed from the list of countries that are state sponsors of terrorism.

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707, Publication of Proposed Regulations. Subsection (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only removes Sudan from the list of countries that fall within the DFARS definition of ''state sponsor of terrorism,'' consistent with the December 14, 2020, rescission of the designation by the Secretary of State.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule amends the solicitation provision at DFARS 252.225–7050, Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism, and the contract clause at DFARS 252.225–7051, Prohibition on Acquisition of Certain Foreign Commercial Satellite Services. The rule only removes Sudan from the list of countries in the DFARS definition of ''state sponsor of terrorism,'' consistent with the December 14, 2020, rescission of the designation by the Secretary of State. This rule does not change the applicability of the affected solicitation provision, which is included in solicitations and contracts that exceed $150,000 for commercial items (other than commercial satellite services), including commercially available off-the-shelf items; and the affected contract clause, which is included in solicitations and contracts for the acquisition of commercial satellite services, including solicitations and contracts for commercial items.

IV. 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. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. The Office of Information and Regulatory Affairs has determined that this rule is not a major rule as defined by 5 U.S.C. 804.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

This rule affects the information collection requirements in the provision at DFARS 252.225–7050 currently approved under OMB Control Number 0704–0187, entitled Information Collection in Support of the DoD Acquisition Process (Various Miscellaneous Requirements), in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The impact, however, is negligible, because this rule only changes the definition of ''state sponsor of terrorism'' to remove Sudan from the list of countries in the definition. Overall, the rule does not impose any additional compliance requirements on contractors or process procedures for the Government.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

■ 2. Amend section 225.772–1 by revising the definition of ''State sponsor of terrorism'' to read as follows:

225.772–1 Definitions.

* * * * *

State sponsor of terrorism means a country determined by the Secretary of State, under section 1754(c)(1)(A)(i) of the Export Control Reform Act of 2018 (Title XVII, Subtitle B, of the National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115–232), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of December 14, 2020, state sponsors of terrorism include Iran, North Korea, and Syria. (10 U.S.C. 2327)

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 252.225–7050 by—

■ a. Revising the provision date;

■ b. In paragraph (a)—

■ i. In the definition of ''Significant interest'' by redesignating paragraphs (i) through (v) as paragraphs (1) through (5), respectively; and

■ ii. In the definition of ''State sponsor of terrorism'' by removing ''include:'' and adding ''include'' in its place and removing ''Sudan,''.

The revision reads as follows:

252.225–7050 Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism.

* * * * *

Disclosure of Ownership or Control by the Government of a Country that is a State Sponsor of Terrorism (SEP 2021)

* * * * *

■ 4. Amend section 252.225–7051 by—

■ a. Revising the clause date;

■ b. In paragraph (a)—

■ i. In the definition of ''Covered foreign country'' by redesignating paragraphs (i) through (iv) as paragraphs (1) through (4), respectively;

■ ii. In the definition of ''Foreign entity'' by redesignating paragraphs (i) and (ii) as (1) and (2), respectively; and in the newly redesignated paragraph (2) by removing ''paragraph (i)'' and adding ''paragraph (1)'' in its place;

■ iii. In the definition of ''State sponsor of terrorism'' by removing ''include:'' and adding ''include'' in its place and removing ''Sudan,''; and

■ iv. In paragraph (b)(2)(ii)(B)(*1*), by adding ''or'' at the end of the sentence.

The revision reads as follows:

252.225–7051 Prohibition on Acquisition of Certain Foreign Commercial Satellite Services.

* * * * *

Prohibition on Acquisition of Certain Foreign Commerical Satellite Services (SEP 021)

* * * * *

[FR Doc. 2021–20940 Filed 9–28–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 210217–0022]

RTID 0648–XB452

Fisheries of the Exclusive Economic Zone Off Alaska; ''Other Rockfish'' in the Aleutian Islands Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of ''other rockfish'' in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2021 ''other rockfish'' total allowable catch (TAC) in the Aleutian Islands subarea of the BSAI has been reached.

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

FOR FURTHER INFORMATION CONTACT: Allyson Olds, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2021 ''other rockfish'' TAC in the Aleutian Islands subarea of the BSAI is 394 metric tons (mt) as established by

the final 2021 and 2022 harvest specifications for groundfish in the BSAI (86 FR 11449, February 25, 2021). In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the 2021 ''other rockfish'' TAC in the Aleutian Islands subarea of the BSAI has been reached. Therefore, NMFS is requiring that ''other rockfish'' in the Aleutian Islands subarea of the BSAI be treated in the same manner as a prohibited species, as described under § 679.21(a), for the remainder of the year, except ''other rockfish'' species in the Aleutian Islands subarea caught by catcher vessels using hook-and-line, pot, or jig gear as described in § 679.20(j).

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting retention of ''other rockfish'' in the Aleutian Islands subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 23, 2021.

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

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

Dated: September 24, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–21137 Filed 9–24–21; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 210217–0022]

RTID 0648–XB292

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for Pacific ocean perch in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully use the 2021 total allowable catch of Pacific ocean perch (POP) specified for the Bering Sea subarea of the BSAI.

DATES:

Effective date: Effective 1200 hrs, Alaska local time (A.l.t.), September 26, 2021, through 2400 hrs, A.l.t., December 31, 2021.

Comments due date: Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 14, 2021.

ADDRESSES: Submit your comments, identified by NOAA–NMFS–2020–0141, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2020–0141, click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands management area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for POP in the Bering Sea subarea of the BSAI under § 679.20(d)(1)(iii) (86 FR 11449, February 25, 2021).

NMFS has determined that approximately 5,000 metric tons of POP remain in the directed fishing allowance. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2021 total allowable catch of POP in the Bering Sea subarea of the BSAI, NMFS is terminating the previous closure and is opening directed fishing for POP in Bering Sea subarea of the BSAI, effective 1200 hrs, A.l.t., September 26, 2021, through 2400 hrs, A.l.t., December 31, 2021. This will enhance the socioeconomic well-being of harvesters dependent on POP in this area.

The Administrator, Alaska Region considered the following factors in reaching this decision: (1) The current catch of POP in the BSAI and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels participating in this fishery.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for POP in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for

public comment because the most recent, relevant data only became available as of September 23, 2021.

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

Without this inseason adjustment, NMFS could not allow the fishery for Pacific ocean perch in the Bering Sea subarea of the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until October 14, 2021.

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

Dated: September 24, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–21193 Filed 9–24–21; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 86, No. 186

Wednesday, September 29, 2021

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

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2017–BT–STD–0014]

RIN 1904–AD98

Energy Conservation Program: Energy Conservation Standards for Residential Clothes Washers, Webinar and Availability of the Preliminary Technical Support Document

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notification of a webinar and availability of preliminary technical support document.

SUMMARY: The U.S. Department of Energy (''DOE'') will hold a webinar to discuss and receive comments on the preliminary analysis it has conducted for purposes of evaluating energy conservation standards for consumer (residential) clothes washers (''RCWs''). The meeting will cover the analytical framework, models, and tools that DOE is using to evaluate potential standards for this product; the results of preliminary analyses performed by DOE for this product; the potential energy conservation standard levels derived from these analyses that DOE could consider for this product should it determine that proposed amendments are necessary; and any other issues relevant to the evaluation of energy conservation standards for RCWs. In addition, DOE encourages written comments on these subjects. To inform interested parties and to facilitate this process, DOE has prepared an agenda, a preliminary technical support document, and briefing materials, which are available on the DOE website at: *www.regulations.gov/docket/EERE-2017-BT-STD-0014.*

DATES:

Meeting: DOE will hold a webinar on Wednesday, November 10, 2021, from 10:00 a.m. to 3:00 p.m. See section IV, ''Public Participation,'' for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

Comments: Written comments and information will be accepted on or before December 13, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2017–BT–STD–0014, by any of the following methods:

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

2. *Email:* To *ConsumerClothesWasher2017STD0014@ee.doe.gov.* Include docket number EERE–2017–BT–STD–0014 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section IV of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing corona virus 2019 (''COVID–19'') pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

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

The docket web page can be found at *www.regulations.gov/docket/EERE-2017-BT-STD-0014.* The docket web page contains instructions on how to access all documents, including public comments in the docket. See section IV for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW, Washington, DC 20585–0121. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Kathryn McIntosh, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2002. Email: *Kathryn.McIntosh@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include consumer (residential) clothes washers,[3] the subject of this document. (42 U.S.C. 6292(a)(7))

EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(g)(2) and (9)(A)), and directed DOE to conduct rulemakings to determine whether to amend the statutorily established standards. (42 U.S.C. 6295(g)(4) and (9)(B)) EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) Not later than 3 years after issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B))

Under EPCA, any new or amended energy conservation standard must be designed to achieve the maximum improvement in energy efficiency that DOE determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, the new or amended standard must result in a significant conservation of energy. (42 U.S.C. 6295(o)(3)(B))

DOE is publishing this preliminary analysis to collect data and information to inform its decision consistent with its obligations under EPCA.

B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including RCWs. As noted, EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy efficiency (or water efficiency for certain products specified by EPCA) that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3)) The Secretary may not prescribe an amended or new standard that will not result in significant conservation of energy, or is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3))

On February 14, 2020, DOE published an update to its procedures, interpretations, and policies for consideration in new or revised energy conservation standards and test procedure, *i.e.,* ''Procedures, Interpretations, and Policies for Consideration of New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Certain Commercial/Industrial Equipment'' (see 10 CFR part 430, subpart C, appendix A (''Process Rule,'')).[4] 85 FR 8626. In the updated Process Rule, DOE established a significance threshold for energy savings under which DOE employs a two-step approach that considers both an absolute site energy savings threshold and a threshold that is a percent reduction in the energy use of the covered product. Section 6(b) of the Process Rule.

DOE first evaluates the projected energy savings from a potential maximum technologically feasible (''max-tech'') standard over a 30-year period against a 0.3 quadrillion British thermal units (''quads'') of site energy savings threshold. Section 6(b)(2) of the Process Rule. If the 0.3 quad-threshold is not met, DOE then compares the max-tech savings to the total energy usage of the covered product to calculate a percentage reduction in energy usage. Section 6(b)(3) of the Process Rule. If this comparison does not yield a reduction in site energy use of at least 10 percent over a 30-year period, the analysis will end and DOE will propose to determine that no significant energy savings would likely result from setting new or amended standards. Section 6(b)(4) of the Process Rule. If either one of the thresholds is reached, DOE will conduct analyses to ascertain whether a standard can be prescribed that produces the maximum improvement in energy efficiency that is both technologically feasible and economically justified and still constitutes significant energy savings at the level determined to be economically justified. Section 6(b)(5) of the Process Rule. This two-step approach allows DOE to ascertain whether a potential standard satisfies EPCA's significant energy savings requirements in 42 U.S.C. 6295(o)(3)(B) to ensure that DOE avoids setting a standard that ''will not result in significant conservation of energy.''

EPCA defines ''energy efficiency'' as the ratio of the useful output of services from a consumer product to the *energy use* of such product, measured according to the Federal test procedures. (42 U.S.C. 6291(5), *emphasis added*) EPCA defines ''energy use'' as the quantity of energy directly consumed by a consumer product at point of use, as measured by the Federal test procedures. (42 U.S.C. 6291(4)) Further, EPCA uses a household energy consumption metric as a threshold for setting standards for new covered products. (42 U.S.C. 6295(l)(1)) Given this context, DOE relies on site energy as the appropriate metric for evaluating the significance of energy savings.

To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on the manufacturers and consumers of the products subject to the standard;

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

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

[3] DOE uses the ''residential'' nomenclature and ''RCW'' abbreviation for consumer clothes washers in order to distinguish from the ''CCW'' abbreviation used for commercial clothes washers, which are also regulated equipment under EPCA.

[4] On January 20, 2021, the President issued Executive Order 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. Exec. Order No. 13990, 86 FR 7037 (Jan. 25, 2021) (''E.O. 13990''). E.O. 13990 affirms the Nation's commitment to empower our workers and communities; promote and protect our public health and the environment; and conserve our national treasures and monuments. To that end, the stated policies of E.O. 13990 include: Improving public health and protecting our environment; ensuring access to clean air and water; and reducing greenhouse gas emissions. E.O. 13990 section 1. Section 2 of E.O. 13990 directs agencies, in part, to immediately review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (''agency actions'') promulgated, issued, or adopted between January 20, 2017, and January 20, 2021, that are or may be inconsistent with, or present obstacles to, the policy set forth in the Executive Order. E.O. 13990 section 2. In addition, section 2(iii) of E.O. 13990 specifically directs DOE to, as appropriate and consistent with applicable law, publishing for notice and comment a proposed rule suspending, revising, or rescinding the updated Process Rule. In response to this directive, DOE has undertaken a review of the updated Process Rule. See, 86 FR 18901 (Apr. 12, 2021) and 86 FR 35668 (July 7, 2021).

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA requirement	Corresponding DOE analysis
Significant Energy Savings	• Shipments Analysis. • National Impact Analysis. • Energy and Water Use Analysis.
Technological Feasibility	• Market and Technology Assessment. • Screening Analysis. • Engineering Analysis.
Economic Justification:	
1. Economic impact on manufacturers and consumers	• Manufacturer Impact Analysis. • Life-Cycle Cost and Payback Period Analysis. • Life-Cycle Cost Subgroup Analysis.
2. Lifetime operating cost savings compared to increased cost for the product	• Shipments Analysis. • Markups for Product Price Analysis. • Energy and Water Use Analysis. • Life-Cycle Cost and Payback Period Analysis.
3. Total projected energy savings	• Shipments Analysis. • National Impact Analysis.
4. Impact on utility or performance	• Screening Analysis. • Engineering Analysis.
5. Impact of any lessening of competition	• Manufacturer Impact Analysis.
6. Need for national energy and water conservation	• Shipments Analysis. • National Impact Analysis.
7. Other factors the Secretary considers relevant	• Employment Impact Analysis. • Utility Impact Analysis. • Emissions Analysis. • Monetization of Emission Reductions Benefits. • Regulatory Impact Analysis.

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of product that has the same function or intended use, if DOE determines that products within such group: (A) Consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Finally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (''EISA 2007''), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures for RCWs address standby mode and off mode energy use. In this rulemaking, DOE intends to continue to incorporate such energy use into any

amended energy conservation standards it adopts in the final rule.

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE intends to use to evaluate standards for the product at issue and the results of preliminary analyses DOE performed for the product.

DOE is examining whether to amend the current standards pursuant to its obligations under EPCA. This notification announces the availability of the preliminary technical support document (''TSD''), which details the preliminary analyses and summarizes the preliminary results of DOE's analyses. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

II. Background

A. Current Standards

The current energy conservation standards for RCWs were established in a direct final rule published on May 31, 2012. 77 FR 32308 (''May 2012 Final Rule'').[5] These standards are based on a joint proposal submitted to DOE by interested parties representing manufacturers, energy and environmental advocates, and consumer groups.[6]

The May 2012 Final Rule established two sets of amended standards, which are both based on a minimum allowable integrated modified energy factor (''IMEF''), measured in cubic feet per kilowatt-hour per cycle (''ft^3/kWh/cycle''), and maximum allowable integrated water factor (''IWF''), measured in gallons per cycle per cubic foot (''gal/cycle/ft^3''). *Id.* The May 2012 Final Rule established four classes of RCW: Top-loading, compact (less than 1.6 cubic feet (''ft^3'') capacity); top-loading, standard (1.6 ft^3 or greater capacity); front-loading, compact (less than 1.6 ft^3 capacity); and front-loading, standard (1.6 ft^3 or greater capacity). 77 FR 32308, 32316–32320. One set of amended standards applies to all RCWs manufactured on or after March 7, 2015. 77 FR 32308, 32380. The second set of amended standards applies to the two top-loading product classes manufactured on or after January 1, 2018. *Id.*

The current energy conservation standards for RCWs are provided at 10 CFR 430.32(g)(4) and repeated in Table II.1. These standards are based on the current test procedure for RCWs at 10 CFR part 430, subpart B, appendix J2 (''Appendix J2'').

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR RESIDENTIAL CLOTHES WASHERS

Product class	Minimum integrated modified energy factor (ft^3/kWh/cycle)	Maximum integrated water factor (gal/cycle/ft^3)
Top-loading, Compact (less than 1.6 ft^3 capacity)	1.15	12.0
Top-loading, Standard (1.6 ft^3 or greater capacity)	1.57	6.5
Front-loading, Compact (less than 1.6 ft^3 capacity)	1.13	8.3
Front-loading, Standard (1.6 ft^3 or greater capacity)	1.84	4.7

On December 16, 2020, DOE published a final rule (''December 2020 Final Rule'') establishing separate product classes for top-loading, standard clothes washers with an average cycle time of less than 30 minutes and front-loading, standard clothes washers with an average cycle time of less than 45 minutes. 85 FR 81359. DOE is re-evaluating the analysis in the short-cycle product class determination in light of Executive Order 13990 and published a NOPR on August 11, 2021, proposing to revoke the December 2020 Final Rule and reinstate the prior product classes and applicable standards for RCWs. 86 FR 43970.

B. Current Process

On August 2, 2019, DOE published a request for information (''RFI'') to initiate an effort to determine whether to amend the current energy conservation standards for RCWs. 84 FR 37794 (''August 2019 RFI''). Specifically, through the August 2019 RFI, DOE sought data and information that could enable the agency to determine whether DOE should propose a ''no new standard'' determination because a more stringent standard: (1) Would not result in a significant savings of energy; (2) is not technologically feasible; (3) is not economically justified; or (4) any combination of foregoing. *Id.* On August 26, 2019, DOE extended the comment period for the August 2019 RFI and on October 3, 2019, reopened the comment period for an additional 14 days. 84 FR 44557 and 84 FR 52818, respectively.

Comments received to date as part of the current process have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received.

C. Test Procedure

DOE published a test procedure NOPR on September 1, 2021 proposing to establish a new test procedure at 10 CFR part 430, subpart B, appendix J (''Appendix J''), which would define new energy efficiency metrics: An energy efficiency ratio (''EER'') and a water efficiency ratio (''WER''). 86 FR 49140. As proposed, EER would be defined as the weighted-average load size in pounds (''lbs'') divided by the sum of (1) the per-cycle machine energy, (2) the per-cycle water heating energy, (3) the per-cycle drying energy, and (4) the per-cycle standby and off mode energy consumption, in kWh. *Id.* at 86 FR 49172. As proposed, WER would be defined as the weighted-average load size in lbs divided by the total weighted per-cycle water consumption for all wash cycles, in gallons. *Id.* at 86 FR 49173. For both EER and WER, a higher value would indicate more efficient performance. *Id.*

As the basis for this preliminary analysis, DOE used the per-cycle energy and water consumption values and resulting EER and WER metrics as determined using the proposed appendix J. In order to assist interested parties in understanding how the analysis based on the proposed appendix J metrics compares to performance as measured under the current appendix J2 test procedure (*i.e.,*

[5] DOE published a confirmation of effective date and compliance date for the direct final rule on October 1, 2012. 77 FR 59719.

[6] Available at: *www.regulations.gov/document/EERE-2008-BT-STD-0019-0032.*

how the proposed efficiency levels based on EER and WER metrics align with the existing IMEF and IWF metrics), DOE has defined each potential efficiency level according to both sets of efficiency metrics. See chapter 5 of the preliminary TSD for additional details on the proposed test procedure.

III. Summary of the Analyses Performed by DOE

For the products covered in this preliminary analysis, DOE conducted in-depth technical analyses in the following areas: (1) Engineering; (2) markups to determine product price; (3) energy and water use; (4) life-cycle cost (''LCC'') and payback period (''PBP''); and (5) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at *www.regulations.gov/docket/EERE-2017-BT-STD-0014.*

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses that will be expanded if DOE determines that a NOPR is warranted to propose amended energy conservation standards. These analyses include: (1) The market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and the national impact analysis (''NIA''). In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR should one be issued.

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including general characteristics of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment include: (1) A determination of the scope of the rulemaking and product classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of the product.

See chapter 3 of the preliminary TSD for further discussion of the market and technology assessment.

B. Screening Analysis

DOE uses the following five screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production and reliable installation and servicing of a technology in commercial products could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on product utility or product availability.* If it is determined that a technology would have a significant adverse impact on the utility of the product for significant subgroups of consumers or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) *Adverse impacts on health or safety.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-pathway proprietary technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, that technology will not be considered further due to the potential for monopolistic concerns.

10 CFR part 430, subpart C, appendix A, sections 6(c)(3) and 7(b).

If DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis.

See chapter 4 of the preliminary TSD for further discussion of the screening analysis.

C. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of RCWs. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each analyzed product class, DOE estimates the manufacturer production cost (''MPC'') for the baseline as well as higher efficiency levels.

The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA). As noted in section II.C of this document, the cost-efficiency curves are presented based on both sets of efficiency metrics: EER and WER metrics as they would be determined using the proposed appendix J test procedure, and IMEF and IWF based on the existing appendix J2 test procedure, to facilitate comparison between both sets of metrics.

See chapter 5 of the preliminary TSD for additional detail on the engineering analysis.

D. Markups Analysis

The markups analysis develops appropriate markups (*e.g.,* manufacturer markups, retailer markups, distributor markups, contractor markups) in the distribution chain and sales taxes to convert MPC estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin.

DOE converts the MPC to the manufacturer selling price (''MSP'') by applying a manufacturer markup. The MSP is the price the manufacturer charges its first customer, when selling into the product distribution channels. The manufacturer markup accounts for manufacturer non-production costs and profit margin. DOE developed the manufacturer markup by examining publicly available financial information for manufacturers of the covered product.

DOE further develops baseline and incremental markups for each actor in the distribution chain (after the product leaves the manufacturer). Baseline markups are applied to the price of

products with baseline efficiency, while incremental markups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.[7]

Chapter 6 of the preliminary TSD provides details on DOE's development of markups for RCWs. Chapter 12 of the preliminary TSD provides additional detail on the manufacturer markup.

E. Energy and Water Use Analysis

The purpose of the energy and water use analysis is to determine the annual energy and water consumption of RCWs at different efficiencies in representative U.S. single-family homes, multi-family, and mobile home residences, and to assess the energy and water savings potential of increased RCW efficiency. The energy and water use analysis estimates the range of energy and water use of RCWs in the field (*i.e.,* as they are actually used by consumers). The energy and water use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

Chapter 7 of the preliminary TSD addresses the energy and water use analysis.

F. Life-Cycle Cost and Payback Period Analyses

The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (MSP, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy and water use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

Chapter 8 of the preliminary TSD addresses the LCC and PBP analyses.

G. National Impact Analysis

The NIA estimates the national energy savings (''NES'') and the net present value (''NPV'') of total consumer costs and savings expected to result from amended standards at specific efficiency levels (referred to as candidate standard levels).[8] DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of RCWs sold from 2027 through 2056.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections (''no-new-standards case''). The no-new-standards case characterizes energy and water use and consumer costs for each product class in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each product class if DOE adopted new or amended standards at specific efficiency levels for that class. For each efficiency level, DOE considers how a given standard would likely affect the market shares of product with efficiencies greater than the standard.

DOE uses a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each efficiency level. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy and water consumption, the no-new-standards case efficiency projection, and discount rates.

DOE estimates a combined total of 1.31 quads of site energy savings at the max-tech efficiency levels for RCWs. Therefore, DOE has determined the potential available energy savings for RCWs are more than the 0.3 quads of site energy threshold established by the Process Rule and thus are considered significant under EPCA. (42 U.S.C. 6295(o)(3)(B))

Chapter 10 of the preliminary TSD addresses the NIA.

IV. Public Participation

DOE invites public participation in this process through participation in the webinar and submission of written comments and information. After the webinar and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Following such consideration, the Department will publish either a determination that the standards for RCWs need not be amended or a NOPR proposing to amend those standards. The NOPR, should one be issued, would include proposed energy conservation standards for the products covered by that rulemaking, and members of the public would be given an opportunity to submit written and oral comments on the proposed standards.

A. Participation in the Webinar

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=68.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

[7] Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

[8] The NIA accounts for impacts in the 50 states and U.S. territories.

Any person who has an interest in the topics addressed in this document, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit such request to *ApplianceStandards Questions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

Persons requesting to speak should briefly describe the nature of their interest in this rulemaking and provide a telephone number for contact. DOE requests persons selected to make an oral presentation to submit an advance copy of their statements at least two weeks before the webinar. At its discretion, DOE may permit persons who cannot supply an advance copy of their statement to participate, if those persons have made advance alternative arrangements with the Building Technologies Office. As necessary, requests to give an oral presentation should ask for such alternative arrangements.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present summaries of comments received before the webinar, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the webinar will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE invites all interested parties, regardless of whether they participate in the public meeting, to submit in writing by December 13, 2021, comments and information on matters addressed in this notification and on other matters relevant to DOE's consideration of amended energy conservations standards for RCWs. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

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

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

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (''CBI'')). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the website will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

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

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

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

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

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to

500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email to *ConsumerClothes Washer2017STD0014@ee.doe.gov* two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of a webinar and availability of preliminary technical support document.

Signing Authority

This document of the Department of Energy was signed on September 22, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 23, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–21021 Filed 9–28–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 300

[REG–100718–21]

RIN 1545–BQ06

User Fees Relating to the Enrolled Agent Special Enrollment Examination and the Enrolled Retirement Plan Agent Special Enrollment Examination

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed amendments to the regulations relating to the user fees for the special enrollment examinations for enrolled agents and enrolled retirement plan agents. This document also contains a notice of public hearing on the proposed regulations. The proposed regulations increase the amount of the user fee for each part of the special enrollment examination for enrolled agents (EA SEE). The proposed regulations also remove the user fee for the special enrollment examination for enrolled retirement plan agents (ERPA SEE) because the IRS no longer offers the ERPA SEE or new enrollment as an enrolled retirement plan agent. The proposed regulations affect individuals taking the EA SEE. The Independent Offices Appropriation Act of 1952 authorizes charging user fees.

DATES: Electronic or written comments must be received by November 15, 2021. The public hearing is being held by teleconference on November 23, 2021 at 10 a.m. EST. Requests to speak and outlines of topics to be discussed at the public hearing must be received by November 15, 2021. If no outlines are received by November 15, 2021, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5:00 p.m. EST on November 19, 2021. The telephonic hearing will be made accessible to people with disabilities. Requests for special assistance during the telephonic hearing must be received by November 18, 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–100718–21) 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. Any comments submitted on paper will be considered to the extent practicable. The IRS will publish any comments submitted electronically, and to the extent practicable comments submitted on paper, to the public docket. Send paper submissions to: CC:PA:LPD:PR (REG–100718–21), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

For those requesting to speak during the hearing, send an outline of topic submissions electronically via the Federal eRulemaking Portal at *www.regulations.gov* (indicate IRS and REG–100718–21).

Individuals who want to testify (by telephone) at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–100718–21 and the word TESTIFY. For example, the subject line may say: Request to TESTIFY at Hearing for REG–100718–21. The email should include a copy of the speaker's public comments and outline of topics. Individuals who want to attend (by telephone) the public hearing must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–100718–21 and the word ATTEND. For example, the subject line may say: Request to ATTEND Hearing for REG–100718–21. To request special assistance during the telephonic hearing, contact the Publications and Regulations Branch of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–5177 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Karen Wozniak at (202) 317–5129; concerning cost methodology, Michael A. Weber at (202) 803–9738; concerning submission of comments, the hearing, and the access code to attend the hearing by telephone, Regina Johnson at (202) 317–5177 (not toll-free numbers) or *publichearings@irs.gov.*

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains proposed amendments to 26 CFR part 300 regarding user fees.

A. Enrolled Agents, Enrolled Retirement Plan Agents, and the Special Enrollment Examinations

Section 330 of Title 31 of the United States Code authorizes the Secretary of the Treasury to regulate the practice of representatives before the Department of the Treasury (Treasury Department) and require that an individual seeking to practice demonstrate the necessary qualifications, competency, and good character, and reputation. The rules governing practice before the IRS are published in 31 CFR, Subtitle A, part 10, and reprinted as Treasury Department Circular No. 230 (Circular 230).

Section 10.4(a) of Circular 230 authorizes the IRS to grant status as enrolled agents to individuals who demonstrate special competence in tax matters by passing a written examination, the EA SEE, and who have not engaged in any conduct that would justify suspension or disbarment under Circular 230.

The EA SEE is comprised of three parts and an applicant generally must pass all three parts within two years to be granted enrolled agent status through written examination. The EA SEE testing period generally begins on May 1 each year and ends the last day of the following February. The EA SEE is not offered during March and April when it is updated to reflect recent changes in the relevant law. More information on the EA SEE, including content, scoring, and how to register, can be found on the IRS website at *www.irs.gov/tax-professionals/enrolled-agents.* Since 2006, the IRS has engaged the services of a third-party contractor to develop and administer the EA SEE. The IRS Return Preparer Office (RPO) oversees the development and administration of the EA SEE. As of August 30, 2021, there were 62,686 enrolled agents.

Section 10.4(b) of Circular 230 authorizes the IRS to grant status as enrolled retirement plan agents to individuals who demonstrate special competence in qualified retirement plan matters by passing a written examination, the ERPA SEE, and who have not engaged in any conduct that would justify suspension or disbarment under Circular 230. The IRS stopped offering the ERPA SEE as of February 12, 2016, and no longer accepts applications for new enrollment as an enrolled retirement plan agent. Accordingly, the proposed regulations remove the user fee for the ERPA SEE. Individuals currently enrolled as retirement plan agents can maintain their status as enrolled retirement plan agents. As of August 30, 2021, there were 743 enrolled retirement plan agents.

B. User Fee Authority

The Independent Offices Appropriation Act of 1952 (IOAA) (31 U.S.C. 9701) authorizes each agency to promulgate regulations establishing the charge for services provided by the agency. The IOAA states that the services provided by an agency should be self-sustaining to the extent possible. 31 U.S.C. 9701(a). The IOAA provides that user fees are subject to policies prescribed by the President, which are currently set forth in the Office of Management and Budget (OMB) Circular A–25 (OMB Circular A–25), 58 FR 38142 (July 15, 1993).

Section 6a(1) of OMB Circular A–25 states that when a service offered by an agency provides special benefits to identifiable recipients beyond those accruing to the general public, the agency is to charge a user fee to recover the full cost of providing the service. Section 8e of OMB Circular A–25 requires agencies to review user fees biennially and update the fees as necessary to reflect changes in the cost of providing the underlying services. During the biennial review, an agency must calculate the full cost of providing each service, taking into account all direct and indirect costs to any part of the U.S. government. Under section 6d(1) of OMB Circular A–25, the full cost of providing a service includes, but is not limited to, an appropriate share of salaries, medical insurance and retirement benefits, management costs, and physical overhead and other indirect costs, including rents, utilities, and travel, associated with providing the service.

An agency should set the user fee at an amount that recovers the full cost of providing the service unless the agency requests, and the OMB grants, an exception to the full-cost requirement. Under section 6c(2) of OMB Circular A–25, the OMB may grant exceptions when the cost of collecting the fees would represent an unduly large part of the fee for the activity or when any other condition exists that, in the opinion of the agency head, justifies an exception. When the OMB grants an exception, the agency does not collect the full cost of providing the service and must fund the remaining cost of providing the service from other available funding sources. Consequently, the agency subsidizes the cost of the service to the recipients of reduced-fee services even though the service confers a special benefit on those recipients who would otherwise be required to pay the full cost of receiving the benefit as provided for by the IOAA and OMB Circular A–25.

C. The EA SEE User Fee

Section 10.4(a) of Circular 230 provides that the IRS will grant enrolled agent status to an applicant who, among other things, demonstrates special competence in tax matters by written examination. The EA SEE is the written examination by which applicants can demonstrate special competence in tax matters, and an applicant must pass all three parts of the EA SEE to be granted enrolled agent status through written examination. The IRS confers a benefit on individuals who take the EA SEE beyond those that accrue to the general public by providing them with an opportunity to demonstrate special competence in tax matters by passing a written examination and thereby satisfy one of the requirements for becoming an enrolled agent under section 10.4(a) of Circular 230. Because the EA SEE is a service that provides a special benefit to test takers, the IRS charges a user fee to take the examination.

Final regulations (TD 9820) published in the **Federal Register** (82 FR 33009–01) on July 19, 2017, established the current $81 user fee per part of the EA SEE. At that time the Treasury Department and the IRS determined that a $81 user fee per part would recover the full direct and indirect costs the government would incur to oversee the EA SEE. The contractor who administers the EA SEE also charges individuals taking the EA SEE an additional fee for its services. For the May 2021 to February 2022 testing period, the contractor's fee is $104 for each part of the EA SEE.

As required by OMB Circular A–25, in 2021 the IRS conducted a biennial review of the EA SEE user fee and calculated its costs for overseeing the examination. As a result of the review, the IRS determined that its full cost for overseeing the EA SEE is $99 per part, plus an amount payable directly to a third-party contractor for its services. The proposed regulations increase the amount of the user fee for taking the EA SEE from $81 per part to $99 per part. This amount is in addition to an amount payable directly to the third-party contractor for each part. The IRS does not intend to subsidize any of the cost of making the EA SEE available to examinees and is not applying for an exception to the full-cost requirement in OMB Circular A–25.

The increase in the user fee is primarily attributable to increases in salary and benefits for employees conducting activities related to the EA SEE program. The proposed user fee accounts for the time and personnel necessary to oversee the development and administration of the EA SEE and to ensure the contractor complies with the terms of its contract. The IRS's oversight costs include costs associated with: (1) Review and approval of materials used by the contractor in developing the EA SEE; (2) review of surveys of existing enrolled agents, which help to determine the topics to be covered in the EA SEE; (3) composition of potential EA SEE questions in coordination with the contractor's external tax law experts; and (4) analysis of the answers and raw scores of a testing population to determine a passing score.

In addition, IRS personnel ensure the contractor's compliance with its contract by reviewing the work of the contractor using an annual Work Breakdown Structure—a project management tool—and reviewing and verifying that the contractor is in compliance with a Quality Assurance Plan measuring customer satisfaction and accuracy. The IRS incurs additional costs associated with enforcing compliance with the Treasury contractor personnel security and training policies, Federal Information Security Modernization Act (FISMA), Section 508 of the Rehabilitation Act of 1973 and other laws, regulations and policies in the scope of the EA SEE contract; monitoring the contractor's help desk; and the resolution of test-related issues such as cheating incidents, appeals regarding test scores, refund requests, and customer service complaints that are not resolved by the contractor.

D. Calculation of User Fees Generally

The IRS follows generally accepted accounting principles (GAAP) in calculating the full cost of overseeing the EA SEE. The Federal Accounting Standards Advisory Board (FASAB) is the body that establishes GAAP that apply for Federal reporting entities, such as the IRS. FASAB publishes the FASAB Handbook of Accounting Standards and Other Pronouncements, as Amended (Current Handbook), which is available at *https://files.fasab.gov/pdffiles/2020_fasab_handbook.pdf.* The Current Handbook includes the *Statement of Federal Financial Accounting Standards (SFFAS) No. 4: Managerial Cost Accounting Standards and Concepts.* SFFAS No. 4 establishes internal costing standards under GAAP to accurately measure and manage the full cost of Federal programs, and the methodology below is in accordance with SFFAS No. 4.

1. Cost Center Allocation

The IRS determines the cost of its services and the activities involved in producing them through a cost accounting system that tracks costs to organizational units. The lowest organizational unit in the IRS's cost accounting system is called a cost center. Cost centers are usually separate offices that are distinguished by subject matter area of responsibility or geographic region. All costs of operating a cost center are recorded in the IRS's cost accounting system. The costs charged to a cost center are the direct costs for the cost center's activities in addition to allocated overhead. Some cost centers work on different services across the IRS and are not fully devoted to the services for which the IRS charges user fees.

2. Cost Estimation of Direct Costs

The IRS uses various cost measurement techniques to estimate the costs attributable to oversight of the EA SEE. These techniques include using various timekeeping systems to measure the time required to accomplish activities, or using information provided by subject matter experts on the time devoted to a service or activity. To determine the labor and benefits costs incurred to provide the service of providing the EA SEE, the IRS estimated the number of full-time employees required to conduct activities related to the costs of overseeing the EA SEE. The number of full-time employees is based on both current employment numbers and future hiring estimates. Other direct costs associated with overseeing the EA SEE include travel, training, and supplies.

3. Overhead

When the indirect cost of a service or activity is not specifically identified from the cost accounting system, an overhead rate is added to the identifiable direct cost to arrive at full cost. Overhead is an indirect cost of operating an organization that is not specifically identified with an activity. Overhead includes costs of resources that are jointly or commonly consumed by one or more organizational unit's activities but are not specifically identifiable to a single activity.

These costs can include:

- General management and administrative services of sustaining and supporting organizations.
- Facilities management and ground maintenance services (security, rent, utilities, and building maintenance).
- Procurement and contracting services.
- Financial management and accounting services.
- Information technology services.
- Services to acquire and operate property, plants, and equipment.
- Publication, reproduction, and graphics and video services.
- Research, analytical, and statistical services.
- Human resources/personnel services.
- Library and legal services.

To calculate the overhead allocable to a service, the IRS multiplies an overhead rate by the estimated direct costs. The IRS calculates the overhead rate annually based on the Statement of Net Cost included in the IRS annual financial statements. The financial statements are audited by the Government Accountability Office. The overhead rate is the ratio of the IRS's indirect costs divided by the direct costs of its organizational units. Indirect costs are labor, benefits, and non-labor costs (excluding IT related to taxpayer services, enforcement, and business system modernization) from the supporting and sustaining organizational units. Direct costs are the labor, benefits, and non-labor costs for the IRS's organizational units that interact directly with taxpayers.

For the EA SEE user fee review, the Fiscal Year (FY) 2021 overhead rate of 58.83 percent was used. The rate was calculated based on the FY 2020 Statement of Net Cost as follows:

Total Indirect Costs		$4,274,512,375
Total Direct Costs	÷	*$7,265,460,800*
Overhead Rate		58.83%

E. Calculation of the EA SEE User Fee

1. Cost Estimate

The IRS projected the estimated costs of direct labor and benefits based on the actual salary and benefits of employees who devote time to oversee the administration of the EA SEE program, reduced to reflect the percentage of time each individual spends overseeing the EA SEE program. RPO's managers estimated the percentage of time these employees devote to overseeing the EA SEE based on their knowledge of actual program assignments. Six employees devote seventy-five percent of their time to EA SEE-related activities. Two employees who are contracting officer representatives devote 90 percent and 80 percent of their time, respectively, to EA SEE-related activities. Additional

staffing costs include oversight and support associated with these functions.

The baseline for the labor and benefits estimate was the actual salary and benefits for FY 2021. From this baseline, the IRS estimated the direct labor and benefits costs over the next three years using an inflation factor for FYs 2022, 2023, and 2024. The IRS used a three-year projection because the increase in future labor and benefits costs are reliably predictable representations of the actual costs that will be incurred by the RPO. These estimated direct labor and benefits costs were then reduced to reflect the percentage of time each individual devoted to the EA SEE program and are set out in the following table:

Year	Estimated direct labor and benefit costs
2022	$1,346,086.00
2023	1,376,656.00
2024	1,407,937.00
Total	4,130,679.00

The IRS estimated $12,000 in additional direct costs for each year for travel, training, and supplies.

The total estimated direct costs for the three years is $4,166,679. After estimating the total direct costs, the IRS applied the FY 2021 overhead rate of 58.83 percent to the estimated direct costs to calculate indirect costs of $2,451,257, for a total cost for the three-year period of $6,617,936.

The calculation of the total cost of the EA SEE program for 2022 through 2024 is below:

Direct Costs		$4,166,679
Overhead at 58.83%	+	*$2,451,257*
Total EA SEE Cost		$6,617,936

2. Volume of Examinations

The number of examination parts provided during FYs 2018, 2019, and 2020 were 23,286; 23,945; and 19,913, respectively. The total number of examination parts provided during the three years was 67,144. The IRS used this historical three-year volume to estimate the number of examination parts it expects to provide in FYs 2022, 2023, and 2024.

3. Unit Cost Per Exam

To arrive at the total cost per examination part, the IRS divided the estimated three-year total of EA SEE costs by the total volume of examination parts expected over the same three-year period to determine a unit cost per examination part of $99, as shown below:

Total EA SEE Cost		$6,617,936
Volume	÷	*67,144*
Unit Cost per exam part		$99

As noted in section C, the contractor who administers the EA SEE also charges individuals taking the EA SEE an additional fee for its services. For the May 2022 to February 2023 and May 2023 to February 2024 testing periods, the contractor's fee is $104 and $107, respectively, for each part of the EA SEE. The fee charged by the contractor is fixed by the current contract terms and therefore cannot be reduced or renegotiated at this time. The contract was subject to public procurement procedures, and there were no tenders that were more competitive. The contract will expire on February 28, 2024. The fee charged by the contractor may change when the contract expires. Any future contract will be subject to the public procurement procedures.

Special Analyses

This regulation is not significant and is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The proposed regulations remove the ERPA SEE user fee as the IRS no longer offers the examination or new enrollment as an enrolled retirement plan agent. The EA SEE user fee primarily affects individuals who take the EA SEE. Only individuals, not businesses, can be enrolled agents. Thus, the economic impact of these regulations on any small entity would be a result of an individual enrolled agent owning a small entity or a small entity employing an enrolled agent and reimbursing the individual for the fee. The Treasury Department and the IRS estimate that an average of 22,381 EA SEE examination parts will be taken by individuals annually. Therefore, a substantial number of small entities is not likely to be affected. Further, the economic impact on any small entities affected would be limited to paying the $18 difference in cost between the $99 user fee and the previous $81 user fee per part (for each enrolled agent that a small entity employs and pays for), which is unlikely to present a significant economic impact. The total economic impact of this regulation is thus approximately $402,858 annually, which is the product of the approximately 22,381 examination parts and the $18 increase in the fee per part. Accordingly, the rule is not expected to have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

Pursuant to section 7805(f) of the Internal Revenue Code, 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 Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to comments that are submitted timely to the IRS as prescribed in the preamble under the **ADDRESSES** section. The Treasury Department and the IRS request comments on all aspects of the 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 is being held by teleconference on November 23, 2021 beginning at 10:00 a.m. EST unless no outlines are received by November 15, 2021. The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments by telephone at the hearing must submit written or electronic comments and an outline of the topics to be addressed and the time to be devoted to each topic by November 15, 2021 as prescribed in the preamble under the **ADDRESSES** section.

A period of 10 minutes will be allocated to each person for making comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available at *www.regulations.gov,* search IRS and REG–100718–21. Copies of the agenda will also be available by emailing a request to *publichearings@irs.gov.* Please put ''REG–100718–21 Agenda Request'' in the subject line of the email.

Drafting Information

The principal author of these regulations is Karen Wozniak, Office of the Associate Chief Counsel (Procedure and Administration). Other personnel from the Treasury Department and the IRS participated in the development of the regulations.

List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 300 is proposed to be amended as follows:

PART 300—USER FEES

■ **Paragraph 1.** The authority citation for part 300 continues to read as follows:

Authority: 31 U.S.C. 9701.

§ 300.0 [Amended]

■ **Par. 2.** Section 300.0 is amended by removing paragraph (b)(9) and redesignating paragraphs (b)(10) through (12) as paragraphs (b)(9) through (11).

■ **Par. 3.** Section 300.4 is amended by revising paragraphs (b) and (d) to read as follows:

§ 300.4 Enrolled agent special enrollment examination fee.

* * * * *

(b) *Fee.* The fee for taking the enrolled agent special enrollment examination is $99 per part, which is the cost to the government for overseeing the development and administration of the examination and is in addition to the fees charged by the administrator of the examination.

* * * * *

(d) *Applicability date.* This section applies to registrations for the enrolled agent special enrollment examination that occur on or after [DATE 30 DAYS AFTER PUBLICATION OF THE FINAL RULE IN THE **Federal Register**].

§ 300.9 [Removed]

■ **Par. 4.** Section 300.9 is removed.

§§ 300.10 through 300.12 [Redesignated as §§ 300.09 through 300.11]

■ **Par. 5.** Redesignate §§ 300.10 through 300.12 as §§ 300.09 through 300.11.

Douglas W. O'Donnell,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2021–21242 Filed 9–27–21; 4:15 pm]

BILLING CODE 4830–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201, 220, 222, 223, and 224

[Docket No. 2021–6]

Copyright Claims Board: Initiation of Proceedings and Related Procedures

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Copyright Office is issuing a notice of proposed rulemaking to establish procedures governing the initial stages of a proceeding before the Copyright Claims Board. The proposed rule provides requirements regarding the filing of a claim, the Board's compliance review of the claim, service, issuance of notice of the claim, the respondent's opt-out election, responses, and counterclaims. The Office intends to initiate subsequent rulemakings regarding additional procedures.

DATES: Initial written comments must be received no later than 11:59 p.m. Eastern Time on October 29, 2021. Written reply comments must be received no later than 11:59 p.m. Eastern Time on November 15, 2021.

ADDRESSES: For reasons of government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov.* Specific instructions for submitting comments are available on the Copyright Office website at *http://copyright.gov/rulemaking/case-act-implementation/initiating-proceedings/.* If electronic submission of comments is not feasible due to lack of access to a computer and/or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Kevin R. Amer, Acting General Counsel and Associate Register of Copyrights, by email at *kamer@copyright.gov,* or Whitney Levandusky, Supervisory Attorney-Advisor, by email at *wlev@copyright.gov.* Both can be reached by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

On December 27, 2020, the President signed into law the Copyright Alternative in Small-Claims Enforcement (''CASE'') Act of 2020.[1] The CASE Act directs the Copyright Office to establish the Copyright Claims Board (''CCB'' or ''Board''), a voluntary, alternative forum to federal court for parties to seek resolution of copyright disputes that have a low economic value (''small copyright claims'').[2] The CCB's creation does not displace or limit a party's ability to bring small copyright claims in federal court, but rather provides a more accessible alternative forum to decide those claims.[3] The CCB has authority to hear copyright infringement claims, claims seeking a declaration of noninfringement, and misrepresentation claims under section 512(f) of title 17.[4] Participation in the CCB is voluntary for all parties,[5] and all determinations are non-precedential.[6] On March 26, 2021, the Copyright Office published a notification of inquiry (''NOI'') inviting public comment on various aspects of the CCB's operations, which the Office noted would be established through a series of rulemakings.[7] Congress directed that the CCB begin operations by December 27, 2021, though the Register may for good cause extend that deadline by not more than 180 days.[8]

The CASE Act directs the Register of Copyrights to establish the regulations by which the CCB will conduct its proceedings, subject to the provisions of chapter 15 and relevant principles of law under title 17.[9] In this notice, the Office proposes procedures related to the filing of a claim, the CCB's subsequent review of the claim to ensure that it complies with statutory requirements and the Office's regulations (referred to in this rulemaking as the CCB's ''compliance review''), service, issuance of notice of the claim, the respondent's opt-out election, responses, and counterclaims. The Office will issue proposed rules

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[1] Public Law 116–260, sec. 212, 134 Stat. 1182, 2176 (2020).

[2] *See, e.g.,* H.R. Rep. No. 116–252, at 18–20 (2019); S. Rep. No. 116–105, at 7–8 (2019). Note, the CASE Act legislative history cited is for H.R. 2426 and S. 1273, the CASE Act of 2019, a bill nearly identical to the CASE Act of 2020. *See* H.R. 2426, 116th Cong. (2019); S. 1273, 116th Cong. (2019). In developing the CASE Act, Congress drew on model legislation in the Office's 2013 policy report, *Copyright Small Claims, https://www.copyright.gov/docs/smallclaims/usco-smallcopyrightclaims.pdf.* Congress also incorporated the Office's report and supporting materials into the statute's legislative history. H.R. Rep. No. 116–252, at 19; S. Rep. No. 116–105, at 2.

[3] H.R. Rep. No. 116–252, at 17; S. Rep. No. 116–105, at 2–3, 9.

[4] 17 U.S.C. 1504(c)(1)–(3). The CCB cannot issue injunctive relief, but can require that an infringing party cease or mitigate its infringing activity in the event such party agrees and the agreement is reflected in the proceeding's record. *Id.* at 1504(e)(2)(A)(i), (e)(2)(B). This provision also applies to parties making knowing material misrepresentations under section 512(f). *Id.* at 1504(e)(2)(A)(ii).

[5] *See id.* at 1504(a); H.R. Rep. No. 116–252, at 17, 21; S. Rep. No. 116–105, at 3, 11.

[6] H.R. Rep. No. 116–252, at 21–22, 33; S. Rep. No. 116–105, at 14.

[7] 86 FR 16156 (Mar. 26, 2021). Comments received in response to the March 26, 2021 NOI are available at *https://www.regulations.gov/document/COLC-2021-0001-0001/comment.* References to these comments are by party name (abbreviated where appropriate), followed by ''Initial NOI Comments'' or ''Reply NOI Comments,'' as appropriate.

[8] Public Law 116–260, sec. 212(d), 134 Stat. at 2199.

[9] 17 U.S.C. 1506(a)(1).

related to later stages of a proceeding in subsequent rulemakings.

A. Initiating a Claim

To initiate a proceeding before the CCB, a claimant shall, ''subject to such additional requirements as may be prescribed in regulations established by the Register of Copyrights,'' file a claim that ''(1) includes a statement of material facts in support of the claim; (2) is certified under [17 U.S.C. 1506(y)(1)]; and (3) is accompanied by a filing fee in such amount as may be prescribed in regulations established by the Register of Copyrights.'' [10] The legislative history states that the Office should establish a process that is ''accessible especially for *pro se* parties and those with little prior formal exposure to copyright laws.'' [11]

Parties provided comments on several matters relating to the contents of a claim. Commenters emphasized the need for plain language,[12] suggested that the forms should be available, at a minimum, in English and Spanish,[13] and encouraged the use of fillable forms.[14] The Office agrees with these suggestions, and intends to use plain-language fillable forms throughout various stages of CCB proceedings, including for the filing of a claim.

The Office proposes that to initiate a proceeding, a claimant must: First, complete a claim form provided by the CCB; second, complete an initial notice form, also provided by the CCB; and, finally, submit the completed forms and required filing fee through the Board's electronic filing and document management system. A claimant who is unable to use the electronic filing and document management system may initiate a proceeding by using printed forms and alternative submission instructions. In addition to the statutory requirements to submit the claim and filing fee to the CCB, the Office is proposing that the claimant be required to submit a completed initial notice form with the claim form. This proposal allows a Copyright Claims Attorney to review the initial notice and address any issues during compliance review, and issue the signed notice under Copyright Office seal upon approving the claim.[15]

The proposed rule sets forth the required information for the claim form. It generally requires the claimant to identify the parties, the claim asserted under section 1504(c), and the harms experienced as a result of the dispute subject to the proceeding. Then, the claimant must identify certain facts relevant to the claim and provide a statement describing the dispute in more detail. The claimant will be asked to be as detailed as possible, but, as contemplated by Congress, the CCB will ''construe liberally'' any information in the claim to satisfy regulatory requirements during claim review.[16]

The Office received one substantive comment arguing that the claim should require more than is required by notice pleading as set forth in the Federal Rules of Civil Procedure.[17] Such a heightened pleading standard, however, would go against congressional intent. The legislative history explains that ''many of the terms and processes used in the [CASE] Act are drawn from preexisting, related state and federal statutory language, the Federal Rules of Civil Procedure, and established case law,'' and emphasizes that the CCB is intended to be ''an efficient, effective, and voluntary alternative'' to litigation.[18] As a general rule, therefore, practice before the CCB should be less complex than practice in the federal courts, and certainly not more complex. Further, to the extent there are statements in the claim that clearly do not state facts upon which relief can be granted, the CCB anticipates that the compliance review process typically will resolve such issues. Finally, the claimant must certify that the information provided in the claim form is ''accura[te] and truthful[ ]'' [19] to the best of the certifying party's knowledge.

The proposed rule also allows optional documentation to be attached to the claim form, including copies of the works involved. While some commenters suggested that additional documentation should be a requirement for filing a claim and serving notice,[20] the Office believes that requiring such information at the initial claim stage would discourage claimants from initiating a proceeding and would be more burdensome than the requirements for litigation in the federal courts. Documentary evidence will be a focus of the standard requests for production that the Office will propose in a future rulemaking addressing discovery.

The proposed rule does not address matters relating to the layout or presentation of questions on the form, as the Office seeks to preserve the flexibility to adjust those items as circumstances warrant. The Office intends to make proposed forms available in advance of the CCB's commencement of operations.

B. Review of the Claim by Officers and Attorneys

1. Compliance Review

After the claimant files a claim, the claim ''shall be reviewed by a Copyright Claims Attorney to ensure that the claim complies with [chapter 15] and applicable regulations.'' [21] If the claimant is proceeding ''*pro se,*'' *i.e.,* they are not represented by an attorney, the claim and assertions are to be ''construed liberally in favor of adjudicating applicable claims and defenses.'' [22]

If the claim is found to comply with the statute and regulations, the CCB shall notify the claimant and provide instructions to proceed with service of the claim.[23] If the claim is found not to comply, the CCB is required to provide the claimant with a notice of deficiency and an opportunity to file an amended claim within 30 days after receiving the notice.[24] The amended claim is then reviewed, and the claimant is either notified of the sufficiency of the claim or directed to file an additional amended complaint in that 30-day period. This second amended complaint is reviewed a final time, with the CCB

[10] *Id.* at 1506(e).

[11] H.R. Rep. No. 116–252, at 17; *see also* S. Rep. No. 116–105, at 9–10.

[12] Sen. Dick Durbin, Sen. John Kennedy & Rep. Hakeem Jeffries Initial NOI Comments at 1 (stating that CCB forms should be ''user-friendly, with simplified forms and guidance provided in such a way that parties will not feel compelled to hire an attorney to understand and assist them with the process'') (emphasis omitted); Am. Bar Ass'n Intell. Prop. L. Sec. (''ABA–IPL'') Reply NOI Comments at 2; Patreon Initial NOI Comments at 2.

[13] Am. Intell. Prop. L. Ass'n (''AIPLA'') Initial NOI Comments at 2; Copyright Alliance, Am. Photographic Artists, Am. Soc'y for Collective Rights Licensing, Am. Soc'y of Media Photographers, The Authors Guild, CreativeFuture, Digital Media Licensing Ass'n, Graphic Artists Guild, Indep. Book Pubs. Ass'n, Music Creators N. Am., Nat'l Music Council of the United States, Nat'l Press Photographers Ass'n, N. Am. Nature Photography Ass'n, Prof. Photographers of Am., Recording Academy, Screen Actors Guild-Am. Fed. of Television and Radio Artists, Soc'y of Composers & Lyricists, Songwriters Guild of Am. & Songwriters of N. Am. (''Copyright Alliance, et al.'') Initial NOI Comments at 10; Engine Initial NOI Comments at 3; Niskanen Center Initial NOI Comments at 2.

[14] Copyright Alliance, et al. Initial NOI Comments at 11; Coalition of Visual Artists Initial NOI Comments at 5–8; ABA–IPL Reply NOI Comments at 2.

[15] The Office has modeled the procedures governing issuance of the initial notice on those pertaining to issuance of a summons under Rule 4 of the Federal Rules of Civil Procedure. *See* H.R. Rep. No. 116–252 at 22.

[16] *Id.*

[17] Google Initial NOI Comments at 1 (referring to Federal Rule of Civil Procedure 12).

[18] H.R. Rep. No. 116–252, at 23.

[19] 17 U.S.C. 1506(y).

[20] *See, e.g.,* Ben Vient Initial NOI Comments at 2; Copyright Alliance, et al. Initial NOI Comments at 13; Univ. of Mich. Library Initial NOI Comments at 1.

[21] 17 U.S.C. 1506(f)(1).

[22] H.R. Rep. No. 116–252, at 22.

[23] 17 U.S.C. 1506(f)(1)(A).

[24] *Id.* at 1506(f)(1)(B).

either clearing the claim for service or, upon confirmation of noncompliance by a Copyright Claims Officer, dismissing the claim without prejudice. The CCB shall also dismiss without prejudice any proceeding in which the claimant fails to file an amended complaint within the 30-day window. Counterclaims are subject to the same compliance review.[25]

The statute describes the compliance review process in some detail. Here, the Office proposes a limited number of regulations to clarify the scope of review. The proposed rule provides that a Copyright Claims Attorney shall review a claim to determine whether the allegations ''clearly do not state a claim upon which relief can be granted.'' This standard echoes the standard set forth in the Federal Rules of Civil Procedure,[26] but is meant to be less exacting than that governing a motion to dismiss. The Office believes that this approach is in the best interest of all parties: The claimant has the opportunity to state its case; the respondent has a better understanding of the allegations involved in the claim and will be in a stronger position to consider participation; and the CCB will avoid the administrative burden associated with hearing overbroad or clearly implausible claims. The Office is also proposing to incorporate an examination standard from the *Compendium of U.S. Copyright Office Practices,* which stipulates that while the Office does not conduct factual investigations, it may take administrative notice of facts generally known as established and may use that knowledge during compliance review.[27] Finally, as suggested by one commenter,[28] the proposed rule clarifies that the CCB's clearance of a claim for notice is not an endorsement of the facts and statements asserted in the claim.

2. Dismissal for Unsuitability

Under the statute, the CCB must dismiss a claim or counterclaim without prejudice if it ''concludes that the claim or counterclaim is unsuitable for determination . . . including on account of any of the following . . . [t]he failure to join a necessary party; . . . [t]he lack of an essential witness, evidence, or expert testimony; [or] [t]he determination of a relevant issue of law or fact that could exceed either the number of proceedings the [CCB] could reasonably administer or the subject matter competence of the [CCB].'' [29] The issue of unsuitability may be taken up by the Board at any time during the proceedings, whether during compliance review or thereafter.[30]

The Office did receive suggestions as to particular claims that should be considered unsuitable.[31] At this time, however, the proposed regulation addresses only the procedural matter of how the issue of unsuitability will be addressed. The Office proposes that the issue of unsuitability may be raised by the Board or by any party to the proceeding. Upon consideration of the matter, the Board may issue an order dismissing the claim without prejudice, after which the claimant has an opportunity to request reconsideration and the respondent has an opportunity to respond. In proposing this approach, the Office seeks to strike an appropriate balance between maximizing parties' opportunity to be heard and preserving the Board's authority to dismiss claims that it determines to be unsuitable for determination.

C. Service of Initial Notice

Once the claimant receives notification that the claim is compliant, the claimant must, not later than ninety days from receiving notification, file with the CCB proof of service on the respondent in order to proceed with the claim.[32] To effectuate service, the claimant ''shall cause notice of the proceeding and a copy of the claim to be served on the respondent'' [33] as prescribed by the statute and regulations.

1. Content of Initial Notice

To ensure that respondents are provided with proper notice of the claims asserted against them, the statute details elements that must be included in the initial notice accompanying the claim. In addition, the Office is required to create a prescribed initial notice form and is vested with regulatory authority to specify further requirements to be included in the notice.

At a minimum, the initial notice must describe the CCB and the nature of a CCB proceeding, so that *pro se* parties understand the process.[34] The initial notice must include ''a clear and prominent explanation of the respondent's right to opt out of the proceeding and the rights the respondent waives if [they] do [ ] not.'' [35] In particular, it must include a prominent statement that by not opting out of a CCB proceeding within sixty days of receiving the notice, the respondent ''loses the opportunity to have the dispute decided by a court created under article III of the Constitution of the United States'' and ''waives the right to a jury trial regarding the dispute.'' [36]

In the NOI, the Office requested comment on ''additional regulatory requirements to help ensure that the initial notice conveys a clear explanation of the CCB, deadlines associated with the pending claim, the ability and method for the respondent to opt out of the proceeding, and the benefits and consequences of participating or declining to do so.'' [37] The Office provided examples of various approaches by federal and state courts,[38] and invited parties to provide specific language to be included on the form or sample forms.[39] The Office asked whether the notice should include a docket number and links to the CCB's website for relevant public information, and encouraged parties to suggest additional educational information ''while being mindful that the notice must remain easy to understand and avoid overwhelming respondents.'' [40]

In response, commenters suggested a number of additional features to be included. Some proposed that the notice include not only information such as the respondent's name, phone number, address, email address, and other contact information, but also information about the claim itself and background information about the CCB.[41] Others suggested that the notice

[25] *Id.* at 1506(f)(2).

[26] Fed. R. Civ. P. 12(b)(6).

[27] U.S. Copyright Office, *Compendium of U.S. Copyright Office Practices, Third Edition* sec. 602.4(C) (3d ed. 2021).

[28] Elec. Frontier Found. (''EFF'') Initial NOI Comments at 2.

[29] 17 U.S.C. 1506(f)(3).

[30] *Id.*

[31] *See, e.g.,* EFF Initial NOI Comments at 3.

[32] 17 U.S.C. 1506(g).

[33] *Id.*

[34] *Id.* at 1506(g)(1).

[35] H.R. Rep. No. 116–252, at 22; *see also* 17 U.S.C. 1506(g)(1).

[36] 17 U.S.C. 1506(g)(1).

[37] 86 FR at 16159.

[38] Admin. Off. of the U.S. Cts., Summons in a Civil Action (June 2012), *https://www.uscourts.gov/sites/default/files/ao440.pdf* (form AO 440); Clerk for the Circuit Court of Cook County, Summons (Dec. 2020), *http://www.cookcountyclerkofcourt.org/Forms/pdf_files/CCG0001.pdf* (form CCG 0001 A) (as of Sept. 14, 2021, Cook County Clerk of Court website was inaccessible); New Jersey Courts, Small Claims Summons and Return of Service (Sept. 2018), *https://njcourts.gov/forms/10534_appendix_xi_a2.pdf.*

[39] 86 FR at 16159.

[40] *Id.*

[41] Copyright Alliance, et al. Initial NOI Comments at 11. However, the same comment observed that the notice ''should provide only the essential information about the process because providing too much information could overwhelm the Respondent.'' *Id.* at 12. Another commenter suggested that the notice include the ''legal name of the Plaintiff, a physical address, and a telephone number by which a live person can be called by the

Continued

include explanations of copyright law,[42] fair use,[43] and other defenses.[44] Multiple commenters argued that the notice should not include elements of infringement or defenses, but should simply state that there are defenses available and include a link to the Copyright Office web page with information about fair use and other defenses that would be typically raised.[45] Many agreed that the notice should address the pros and cons of opting out, with several noting that the Board should do so clearly, concisely, and in a disinterested way.[46]

The Office appreciates parties' comments on this issue and proposes that the initial notice to the respondent be provided in a form that includes the information required by the statute as well as additional basic information about the claim and the parties. The Office envisions a notice that, as is the case with summonses issued by federal courts, is clear and concise and is easy to understand. The Office also envisions that the notice will bear the Office's seal, the CCB's logo, and other indicia to identify it as an official document issued by the federal government.

The Office received a number of suggestions related to substantive claim information that should be attached to the notice, including evidence of infringement[47] and a picture of the allegedly infringing work.[48] The Office believes that for efficiency and clarity, substantive information should be included in or attached to the claim, which sets forth the facts at issue, rather than the notice, which sets forth the procedural implications of the claim. The initial notice is similar to a summons, and with a few exceptions (such as the caption, docket number, and names and addresses of the parties), every notice issued by the Board will be identical. And, for the reasons stated above, the Office has included documentary evidence as an optional attachment to the claim rather than a requirement.

The proposed rule prescribes that claimants use an initial notice form provided by the Board, with most of the content prepared by the Board for use in all initial notices. Claimants will fill in certain information, such as the names, addresses, and contact information for the claimant and the respondent. The rule does not require that the claimant provide a telephone number or email address in the initial notice. Although the Office recognizes the benefits of providing means through which the parties may communicate to discuss the merits of a claim and to discuss settlement, the Office also recognizes that such information might implicate privacy or other interests. The Office invites comments on this proposed approach.

In addition to basic information about the parties, the notice form would require the claimant to identify the nature of the claims being asserted—*i.e.,* whether the claim is for copyright infringement, a declaration of noninfringement, or misrepresentation in connection with a notification or a counter notification served on an online service provider under section 512 of title 17.

The notice would also include the information required by 17 U.S.C. 1506, including a brief description of the CCB and its proceedings, a statement advising the respondent of the right to opt out of the proceeding, how to opt out, and the consequences of doing so (including the statements required by 17 U.S.C. 1506(g)(1)(A) and (B)). It is the Office's intention that the latter statement be concise, clear, and objective.

The notice will also direct the respondent (as well as the claimant) to further information that will be made available on the Office or CCB websites pertaining to copyright law, including exclusive rights, infringement, and exceptions and limitations, as well as further information on CCB proceedings. Information will be provided on how to access the Board's electronic filing and document management system, which will also give respondents a means to confirm that the notice relates to a genuine legal proceeding.

2. Service of Process and Designated Agents

Under the statute, any individual who is not a party to the proceeding and is older than 18 years of age may effectuate service,[49] and both service and waiver of service may only occur within the United States.[50] Choosing how to effectuate service, however, depends on the nature of the respondent. The statute includes separate rules of service for individuals and corporations, partnerships, and unincorporated associations, including those organizations using designated service agents.[51] No claims can be brought ''by or against a Federal or State governmental entity.'' [52]

Service on an individual[53] may be effectuated by using procedures analogous to those in the Federal Rules of Civil Procedure.[54] Service can be accomplished by ''complying with State law for serving a summons in an action brought in courts of general jurisdiction in the State where service is made.'' [55] Service can also be accomplished by ''leaving a copy of the notice and claim at the individual's dwelling or usual place of abode with someone of suitable age and discretion who resides there.'' [56] Finally, service on an individual can be accomplished by ''delivering a copy of the notice and claim to an agent designated by the respondent to receive service of process or, if not so designated, an agent authorized by appointment or by law to receive service of process.'' [57]

Like individuals, corporations, partnerships, or unincorporated associations can be served ''by complying with State law for serving a summons in an action brought in courts of general jurisdiction in the State where service is made.'' [58] These organizations can also be served by delivering the notice and claim to ''an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process in an action brought in courts of general jurisdiction in the State

Respondent during normal business hours to discuss the claim.'' Ryan Fountain Initial NOI Comments at 1.

[42] Anthony Davis Jr. & Katherine Luce Initial NOI Comments at 2.

[43] Patreon Initial NOI Comments at 3.

[44] Copyright Alliance Initial NOI Comments at 11.

[45] *See, e.g.,* AIPLA Initial NOI Comments at 2; Copyright Alliance, et al. Initial NOI Comments at 18.

[46] *See, e.g.,* Public Knowledge, Re:Create, Ctr. for Democracy & Tech., R St. Inst., Org. for Transformative Works (''Public Knowledge, et al.'') Initial NOI Comments at 14 (''The notice language needs to describe the opt-out process clearly, concisely, and in a manner that is comprehensible to a lay audience.''); Google Initial NOI Comments at 1 (''To the extent that the Office intends to give respondents information on the possible consequences of opting out, it will be important to communicate the associated uncertainty in a clear and disinterested way.''); Authors Alliance Initial NOI Comments at 3 (asserting among other things that ''the notice should also describe situations for which the tribunal may not be a suitable venue for dispute resolution'').

[47] Ben Vient Initial NOI Comments at 2.

[48] Computer & Comms's Indus. Assoc. & internet Assoc. (''CCIA & IA'') Initial NOI Comments at 3.

[49] 17 U.S.C. 1506(g)(3).

[50] *Id.* at 1506(g)(9).

[51] *Id.* at 1506(g)(4)–(5).

[52] *Id.* at 1504(d)(3).

[53] For a minor or an incompetent individual, service can be effectuated only by ''complying with State law for serving a summons or like process on such an individual in an action brought in the courts of general jurisdiction of the State where service is made.'' *Id.* at 1506(g)(8); *see also id.* at 1506(g)(4).

[54] *See* Fed. R. Civ. P. 4(e).

[55] 17 U.S.C. 1506(g)(4)(A).

[56] *Id.* at 1506(g)(4)(C).

[57] *Id.* at 1506(g)(4)(D).

[58] *Id.* at 1506(g)(5)(A)(i).

where service is made.'' [59] Under the statute, such corporations, partnerships, or unincorporated associations may elect to receive CCB claim notices via a designated service agent. The Office is required to establish regulations governing this designated service agent option and to ''maintain a current directory of service agents that is available to the public for inspection, including through the internet.'' [60] The Office may charge these organizations a fee to maintain the designated service agent directory.[61]

In the NOI, the Office requested comments specifically related to the designated service agent directory. The Office encouraged commenting parties to review the Office's designated agent directory for online service providers, created pursuant to the Digital Millennium Copyright Act (''DMCA''), and to discuss to what extent the Office should use the DMCA database as a model.[62] The Office also invited comments on how the system should indicate corporate parent-subsidiary relationships, and on fees. In addition, the Office noted its general authority to establish additional regulations governing service throughout a CCB proceeding,[63] and requested comment on any issues that should be considered related to that authority.

The Office received a number of comments regarding the ability of a corporate parent to act as a designated agent on behalf of a subsidiary. The majority of commenters who addressed the issue encouraged the designation of one agent for the corporate parent and all subsidiary firms.[64] Commenters also recommended that service agents be able to choose their method of service,[65] and some argued that after an eligible entity has designated a service agent, the only effective means of service that should be allowed is through the identified service agent in the database.[66] The Office appreciates these comments and finds them to be generally consistent with the statutory text. The proposed rule allows a submitter to provide the same designated agent information for multiple companies, partnerships, or unincorporated associations, but a separate submission would be required for each entity. A designated agent submission is required to include identifying information for the business, including contact information, principal place of business, and for corporations, the state of incorporation, any associated state file or registration number, and all other states in which the corporation is registered to do business. Organizations may also list up to five alternate names under which they are doing business, *i.e.,* trade names. The names provided will be used for indexing the designation, and the business contact information will not be on public view.

The submission must also include contact information for the service agent and the designating entity's consent to service by mail. An entity submitting a designation may also elect to accept service by email in addition to mail. In such cases, the email address of the designated service agent will be included in the public directory.

Although some parties suggested that the Office should require periodic renewal of the designated agent listing,[67] the Office has not included such a requirement in the proposed rule. It is true that, in the context of the designated agent databases for online service providers under the DMCA, the Office implemented a renewal requirement to ''encourage effective compliance with the requirements of [17 U.S.C.] 512(c)(2).'' [68] That provision reflects the statutory requirement that a service provider must designate an agent with the Copyright Office to be eligible for statutory safe harbor provisions.[69] Here, designating a service agent is not a statutory requirement for service on a corporation, partnership, or unincorporated association, but an administrative convenience.[70] In addition, the claimant may effectuate service by alternative means. While the Office accepts the possibility that corporations, partnerships, or unincorporated associations may not keep current their designations, service on the agent who is designated in the directory shall be valid unless the designating entity cancels or amends the designation. The Office believes that this should offer sufficient incentive to parties to keep their designations current.

Finally, the proposed rule provides that if the CCB determines that a designation does not qualify, or if it has reason to believe the submitter does not have authority to make the designation, CCB staff will notify the submitter that the designation will be removed. The submitter will then have ten days to respond. If the submitter does not respond, or the CCB determines that the response is insufficient, the entry will be removed from the directory.

The proposed rule also provides requirements for service of materials filed after the initial notice and claim. The proposed rule has a general requirement for service through the CCB's electronic filing management system or by other means of electronic service, and establishes such service methods as the default. Unrepresented parties, however, may be excused from electronic service and instead receive service by mail or in-person delivery. The same structure is proposed for filing documents beyond the initial notice and claim: parties who are excused from using the electronic filing and document management system may file documents by email, mail, hand delivery, or courier delivery.

D. Waiver of Service

As an alternative to serving notice of the claim on a respondent, the statute allows the claimant to request waiver of service. The claimant must send the request for waiver of service to the respondent ''by first class mail or by other reasonable means,'' and return of the acceptance of waiver must be at no cost to the respondent.[71] The claimant's waiver request must be in writing, include a notice of the proceeding and a copy of the claim, state the date the request was sent, and provide the respondent thirty days to respond.[72] The personal service waiver, if accepted by respondent, does not constitute a waiver of the respondent's right to opt out of the proceeding.[73]

The Office received one comment specifically addressing waiver, expressing concern regarding the use of ''intimidating or misleading language.'' [74] The Office intends to

[59] *Id.* at 1506(g)(5)(A)(ii). If the service agent is ''one authorized by statute and the statute so requires,'' the claimant must also mail a copy of the notice and claim to the respondent. *Id.*

[60] *Id.* at 1506(g)(5)(B).

[61] *Id.*

[62] 86 FR at 16160.

[63] 17 U.S.C. 1506(j).

[64] Amazon Initial NOI Comments at 3; CCIA & IA Initial NOI Comments at 3; Google Initial NOI Comments at 1.

[65] Amazon Initial NOI Comments at 3; Google Initial NOI Comments at 1–2.

[66] Motion Picture Ass'n, Recording Indus. Ass'n of Am. & Software and Info. Ass'n of Am. (''MPA, RIAA & SIIA'') Initial NOI Comments at 5; Verizon Initial NOI Comments at 4.

[67] Copyright Alliance, et al. Initial NOI Comments at 15–16.

[68] 81 FR 75695, 75698 (Nov. 1, 2016).

[69] 17 U.S.C. 512(c)(2) (''The limitations on liability established in this subsection apply . . . only if the service provider has designated an agent to receive notification of claimed infringement . . . and by providing [the following information] to the Copyright Office . . . .'').

[70] *Id.* at 1506(g)(5)(B) (''A corporation, partnership, or unincorporated association . . . may elect to designate a service agent to receive notice of a claim against it.'').

[71] *Id.* at 1506(g)(6).

[72] *Id.* at 1506(g)(6)(A)–(B).

[73] *Id.* at 1506(g)(7)(A).

[74] Engine Initial NOI Comments at 4.

require a standard form provided by the CCB for requesting waiver of service. The form will provide the basic information regarding the proceeding, clarify that the form is not a formal service of summons and does not waive the respondent's right to opt out of the proceeding, and describe the effect of agreeing or declining to waive service. The claimant can request waiver by mailing the request, claim, initial notice, and envelope with postage prepaid to the respondent. The respondent will have thirty days from the date the request is sent to waive service, and may return the signed waiver form by mail or by email, if the claimant includes an email address in the request. If the respondent accepts waiver of service, and further does not opt out, respondent will have an additional thirty days to file a response beyond the time for response typically set by the CCB. If the respondent does not waive service, the claimant must complete service with sufficient time to file the proof of service with the CCB.

E. Second Notice

In addition to the notice served by the claimant on the respondent, the CCB is required to issue a second notice to the respondent if the respondent has not already opted out or filed a response. The statute requires that the Register promulgate regulations ''providing for a written notification to be sent by, or on behalf of, the Copyright Claims Board to notify the respondent of a pending proceeding.'' [75] Similar to the claimant's initial notice, this notice must ''include information concerning the respondent's right to opt out of the proceeding, the consequences of opting out and not opting out, and a prominent statement that, by not opting out within 60 days after the date of service . . . the respondent loses the opportunity to have the dispute decided by a court created under article III of the Constitution of the United States'' and ''waives the right to a jury trial regarding the dispute.'' [76] This second notice supplements the initial notice served by the claimant and is intended to facilitate understanding of the official nature of the documents and proceeding, encourage a respondent to review the materials, and overall, increase the likelihood that a respondent engages with the asserted claim and knowingly elects to proceed or opt out of the CCB proceeding.

In the NOI, the Office sought comment on the second notice, including ''its content and how to ensure that recipients understand that it is an official Federal Government notification.'' [77] The Office also requested input on the method of service—specifically, whether the second notice should be sent ''by or on behalf of'' the CCB, whether the second notice should be posted to the online filing system or delivered by mail or email, and how delivery should be documented.[78]

Commenters suggested that the second notice should be substantially the same as the first, with a prominent warning that this is the second and final notice with an explanation of the impact of not opting out.[79] Parties also recommended that the CCB issue the second notice via U.S. mail.[80] The Office agrees with these comments and proposes that the second notice closely mirror the initial notice, specifically with regard to the description of the CCB, the consequences of opting out, the process of opting out, and accessing legal assistance. The Office proposes to issue the second notice by mail, but also to deliver a second copy via email to the designated service agent of a respondent that is a corporation, partnership, or unincorporated association that has indicated in the designated service agent directory that it will accept email service.

The Office has also proposed that the second notice be issued no later than twenty days after the claimant files proof of service or waiver of service. The CCB will not issue a second notice if the respondent has opted out. The Office anticipates that the respondent will have at least thirty days between the receipt of the second notice and the end of the opt-out period, given that the claimant has seven days to file proof after effectuating service or obtaining waiver, and the Office will issue the second notice no more than twenty days after that. Delays in the claimant's filing of proof of service or waiver may constitute good cause for extending the opt-out or response period.

F. Opt-Out Procedures

Once the respondent receives notice of the claim, the respondent has sixty days to opt out of the proceeding before the CCB, although the CCB can extend that period in the interests of justice, such as for a delay in the receipt of a second notice due to a claimant's failure to file proof of service in a timely manner.[81] If a respondent does not timely opt out, the proceeding will become active and the respondent will be bound by the CCB's determination.[82] If the respondent does opt out, the proceeding will be dismissed without prejudice.[83]

The Office solicited general input regarding opt-out, in particular, the form and process of a written opt-out notice.[84] Commenters were consistent that the opt-out process should be quick and easy to exercise, and that respondents should be provided both online and mail options for opting out.[85] Parties proposed different approaches for the online opt-out process. Suggestions included the creation of a QR code,[86] a button on the CCB home page,[87] and providing a verification key code for security.[88] The Office appreciates parties' comments on this issue and proposes an opt-out notification form that asks for the docket number of the claim, identifying information regarding the respondent, and a signed affirmation that the person affirming is the respondent identified in the claim (or a representative of that respondent) and that the respondent will not be participating in the CCB proceeding. This notification can be submitted either online using a form on the CCB's website or through the mail, or via hand delivery or commercial courier. The Office has included the suggestion that an online opt-out be accompanied by a verification code provided in the initial notice and second notices, and will continue to consider the remaining suggestions regarding online opt-out as it develops its form, website, and online filing system. The CCB will include in the initial and second notice instructions for completing opt-out election online, as well as by using a paper opt-out form.

The proposed rule clarifies various issues related to the scope and effect of opting out. In particular, the rule requires that each respondent to a proceeding independently opt out, and that an opt-out will be effective against duplicate claims but not unrelated

[75] 17 U.S.C. 1506(h).

[76] *Id.* at 1506(h)(1).

[77] 86 FR at 16159.

[78] 17 U.S.C. 1506(h).

[79] Authors Alliance Initial NOI Comments at 4; Niskanen Ctr. Initial NOI Comments at 4.

[80] AIPLA Initial NOI Comments at 3. Copyright Alliance, et al. Initial NOI Comments at 14.

[81] 17 U.S.C. 1506(aa)(1), 1507(b)(2)(A).

[82] *Id.* at 1506(i).

[83] *Id.*

[84] 86 FR at 16161.

[85] *See, e.g.,* Copyright Alliance, et al. Initial NOI Comments at 17–18; EFF Initial NOI Comments at 2–3; Engine Initial NOI Comments at 5–6; Internet Archive Initial NOI Comments at 1–2; MPA, RIAA & SIIA Initial NOI Comments at 8; Public Knowledge, et al. Initial NOI Comments at 14.

[86] Engine Initial NOI Comments at 5; Niskanen Ctr. Initial NOI Comments at 4.

[87] Public Knowledge, et al. Initial NOI Comments at 13–14.

[88] Copyright Alliance, et al. Initial NOI Comments at 12.

claims. The Office recognized that ''Congress did not establish a blanket opt-out for any entities other than libraries and archives,'' [89] and yet the Office also recognizes that the result of an opt-out is a dismissal without prejudice, leaving a claimant open to file substantially the same claim again. The proposed rule is crafted in light of the Office's inability to impose a blanket opt-out, but still seeks to avoid subjecting a respondent to refiled claims.

Not included in this proposed rule is a specific mechanism for a respondent to revoke an opt-out for a particular claim. The Office recognizes that there may be situations where respondents may wish to change their minds and opt in to a proceeding that was previously filed with the CCB and dismissed due to a prior opt-out election.[90] The Office welcomes comment on whether the regulatory text should include a provision permitting a respondent to give the CCB notice of an intention to participate after an initial opt-out, and, if so, any suggestions for regulatory language to govern this process.

The Office also solicited comments regarding whether it should create a publicly accessible list of entities or individuals who have opted out of particular proceedings.[91] At present, given the limited time before the anticipated commencement of CCB operations and the need to focus on establishing the core proceedings of the CCB, the proposed rule does not provide for a public list of prior opt outs. The Office may, however, revisit this issue in the future.

G. Response

A respondent who decides not to opt out of the proceeding must file a response to the claim with the CCB. The response may include ''legal or equitable defense[s] under this title or otherwise available under law'' [92] in response to the claim. A respondent who timely waives service has an additional thirty days to file a response in addition to any deadlines set forth by the CCB.[93] The statute is otherwise silent as to the timing of a response filing, and a proceeding is considered active prior to the filing of any response.[94] Given that a scheduling order must be sent out ''upon confirmation that a proceeding has become an active proceeding'' [95]—*i.e.,* upon the filing of proof of service and the passing of the opt-out window—the Office understands this requirement to mean that any response timeline is to be set forth after the proceeding becomes active and should be included in the scheduling order. Accordingly, the scheduling order issued by the CCB ''upon confirmation that a proceeding has become an active proceeding'' will include a thirty-day deadline from the date of the scheduling order for filing the response. If the respondent has waived service, thereby availing itself of an extra thirty days to respond to the claim, the order will require that the response be filed within sixty days of the date of the scheduling order.

The Office proposes that to respond to a claim, the respondent must complete the appropriate form provided by the CCB and submit the completed form through the Board's electronic filing and document management system. If a respondent is unable to use the electronic filing and document management system, it may submit a response by following alternative submission instructions provided in the form or by the CCB. In addition to identifying information and certification, the form will ask for short statements from the respondent disputing the facts of the claim and describing the dispute or the reasons claimant's claim has no merit from its point of view. As discussed below, the respondent will be able to raise counterclaims. For infringement claims, the form will allow the respondent to identify relevant defenses. In contrast to the Federal Rules of Civil Procedure,[96] however, the proposed regulation does not provide that a defense that is not asserted in a response is waived by the respondent. At this early stage of the proceeding, such a rigid application of pleading requirements would impose an unjustifiable burden on respondents, especially those who are representing themselves. A subsequent rulemaking will address the appropriate stage at which defenses must be raised.

The proposed rule also allows optional documentation to be attached to the response form, including copies of the works involved in the claim. In requesting this information, the Office is seeking to provide respondents with the opportunity to meaningfully respond during the initial stage of the proceeding.

For the response, the Office is particularly interested in comments on an appropriate presentation of possible defenses available to the respondent, any instructional or educational material that would assist the respondent in constructing its response, and any other suggestions that would enhance the respondent's ability to be meaningfully heard and the claimant to be on notice of defenses.[97] With respect to defenses, the Office seeks comment on whether providing a list of defenses (or a link to lists of defenses) that are commonly pleaded in copyright infringement suits would be productive at this, or any, stage in the case, and how to ensure that a respondent understands the defenses available and only asserts those that are applicable.

H. Counterclaims

The CCB may also hear counterclaims that either ''arise[ ] under section 106 or section 512(f) and out of the same transaction or occurrence that is the subject of a claim of infringement, . . . a claim of noninfringement, . . . or a claim of misrepresentation,'' [98] or ''arise[ ] under an agreement pertaining to the same transaction or occurrence that is the subject of a claim of infringement . . . if the agreement could affect the relief awarded to the claimant.'' [99] Any asserted counterclaim is subject to the same compliance review applicable to an initial claim [100] and is subject to dismissal for unsuitability.[101]

The Office proposes that the information required to assert a counterclaim should closely mirror the information required to assert a claim. A counterclaim must be filed at the time of the response, unless the Board, for good cause, permits it to be asserted later in the proceeding. This approach resembles the general requirement of asserting a compulsory counterclaim in federal court.[102] In proposing this approach, the Office is seeking to maintain an efficient, orderly procedure that provides parties sufficient notice as to the issues involved in the proceeding.

The requirements for responding to a counterclaim largely mirror the requirements for responding to a claim, including that a failure to file a response

[89] 86 FR at 16161.

[90] For example, a claimant could file a federal lawsuit after the respondent opts out of a CCB claim. The statute contemplates that the parties could agree to a CCB proceeding in lieu of further litigation. *See* 17 U.S.C. 1504(d)(2).

[91] 86 FR at 16161.

[92] 17 U.S.C. 1504(c)(5).

[93] *Id.* at 1506(g)(7)(B).

[94] *Id.* at 1506(i). A proceeding is deemed active when ''proof of service has been filed by the claimant and the respondent does not submit an opt-out notice to the [CCB] within [the] 60-day period.'' *Id.*

[95] *Id.* at 1506(k).

[96] Fed. R. Civ. P. 12(h).

[97] H.R. Rep. No. 116–252, at 22.

[98] 17 U.S.C. 1504(c)(4)(B)(i).

[99] *Id.* at 1504(c)(4)(B)(ii).

[100] *Id.* at 1506(f)(2).

[101] *Id.* at 1506(f)(3).

[102] Fed. R. Civ. P. 13(a).

will constitute default. The triggering event for responding to a counterclaim, however, is the notification by a Copyright Claims Attorney that the counterclaim is compliant,[103] rather than the issuance of a scheduling order. When a respondent files a counterclaim, a Copyright Claims Attorney must conduct the same compliance review that occurs after the filing of an initial claim. If the counterclaim is found to be compliant, the Board will provide notification of compliance, which will begin the counterclaim respondent's thirty-day period to respond. The Board then will issue a new scheduling order updating the prior due dates as appropriate.

The proposed rule does not provide a mechanism for the respondent to the counterclaim to opt out of the proceeding. The Office encourages comment on this issue, including as to whether such a process is permitted under the statute. The Office notes that Congress did not set forth a procedure for opting out of a counterclaim, in contrast to the detailed procedure set forth for the respondent's initial ability to opt out. It also is noteworthy that Congress has limited allowable counterclaims to those arising from the same transaction or occurrence, and has further limited such claims to those implicating copyright or an agreement affecting the relief to be awarded to the claimant.[104] Accordingly, there arguably should be no surprise for the claimant when a counterclaim is asserted. For example, a claimant who brings an action before the CCB seeking a declaration of noninfringement of a work could reasonably expect a counterclaim for infringement of that same work. As the claimant has already voluntarily submitted to, and in fact requested, the CCB to take up the general issue at hand, having an opt-out procedure for counterclaims potentially could constitute an inefficient use of time and resources.

I. Fees

The Register has general authority to set fees for Copyright Office services,[105] and is specifically directed to set certain fees related to CCB proceedings.[106] Here, the Office sets forth proposed fees relating to the CCB rules included in this notice. The Office will propose additional fees in subsequent rulemakings for the services addressed in those proceedings.

1. Fee for Filing a Claim

To commence a proceeding before the CCB, a claim must be accompanied ''by a filing fee in such amount as may be prescribed in regulations established by the Register of Copyrights.'' [107] The Office is given upper and lower limits to the filing fees it may assess: ''the sum total of'' filing fees must not be less than $100 or exceed the ''cost of filing an action in a district court of the United States,'' [108] currently $402.[109] The Office understands the ''sum total of'' filing fees to consist of the two filing fees indicated in the statute: The filing fee for the initial claim [110] and the filing fee to request review of a final determination by the Register.[111] The amount of fees must ''further the goals of the Copyright Claims Board.'' [112]

The Office proposes an initial claim filing fee of $100 in the interest of facilitating access to the CCB. Given Congress's goal of ensuring that the CCB be accessible to the widest constituency possible,[113] the Office believes it is appropriate to keep the fee at the statutory minimum.

The Senate Report proposed in a footnote that the Office consider a two-tiered fee structure, with an initial fee assessed when the claim is filed and a second fee assessed after the claim becomes active.[114] After consideration, the Office has not included such a framework in the proposed rule. First, it is not clear that the Office has the statutory authority to split fees in this way. While the statute expressly provides for a fee to initiate a claim,[115] it does not require a separate fee for a proceeding to become active.[116] Furthermore, if the Office were to establish a system in which it charged less than $100 for the first tier, and the claimant did not move on to the second tier, the total filing fees would not reach the statutory floor. The Office invites comment on these issues.

For similar reasons, the Office does not currently propose a fee for a counterclaim. In contrast to the statutory provisions relating to a claim, the CASE Act contains no express authorization for the Office to charge fees for a counterclaim. The Office also notes that fees for counterclaims are not required in federal district court, although some state courts do assess such fees.[117] The Office welcomes comment on this matter as well.

2. Fee for Designated Service Agents

As part of its authority to maintain a directory of service agents, the Office ''may require . . . corporations, partnerships, and unincorporated associations designating . . . service agents to pay a fee to cover the costs of maintaining the directory.'' [118] As discussed in the NOI,[119] the designated service agent directory will be similar in nature to the Office's existing DMCA designated agent directory. The fee for adding an entry to the DMCA designated agent directory is $6.[120] This amount was selected, despite an estimated $52 operating cost, in part due to the elastic nature of demand for the DMCA directory.[121] The Office anticipates that the demand for the CCB designated service agent directory will be similarly elastic, if not more, given that participation in the designated service agent directory is not a statutory requirement. The proposed rule accordingly sets a $6 fee for designation of a service agent for CCB purposes. The Office believes that setting the fee at this low level will encourage participation by corporations, partnerships, and unincorporated associations, which in turn will produce a robust database that benefits claimants and respondents alike.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 220

Claims, Copyright, General.

[103] 17 U.S.C. 1506(f)(2) (stating that when the Copyright Claims Attorney finds a counterclaim to be compliant, ''the counterclaimant and such other parties shall be so notified'').

[104] *Id.* at 1504(c)(4).

[105] *Id.* at 708.

[106] *Id.* at 1501(1).

[107] *Id.* at 1506(e)(3).

[108] *Id.* at 1510(c).

[109] The statutory fee for filing suit in a federal district court is $350, 28 U.S.C. 1914(a), and an additional fee of $52 is charged as an administrative fee by the Judicial Conference of the United States. *Id.*

[110] 17 U.S.C. 1506(e).

[111] *Id.* at 1506(x).

[112] *Id.* at 1501(c).

[113] H.R. Rep. No. 116–252, at 17; S. Rep. No. 116–105, at 9–10.

[114] S. Rep. No. 116–105, at 4 n.4.

[115] 17 U.S.C. 1506(e)(3).

[116] *Id.* at 1506(i) (''If proof of service has been filed by the claimant and the respondent does not submit an opt-out notice to the Copyright Claims Board within that 60-day period, the proceeding shall be deemed an active proceeding.'').

[117] *See, e.g.,* Maryland Courts, District Court of Maryland Cost Schedule DCA–109, (rev. 2018), *https://www.courts.state.md.us/sites/default/files/import/district/forms/acct/dca109.pdf* (assessing $18.00 for a small claims cross claim); Superior Court of California, Statewide Civil Fee Schedule (2014), *https://www.courts.ca.gov/documents/filingfees.pdf* (assessing fees for the answer or other first paper filed by a party other than plaintiff).

[118] 17 U.S.C. 1506(g)(5)(B).

[119] 86 FR 16160.

[120] 37 CFR 201.3(c)(23).

[121] Booz Allen Hamilton, *2017 Fee Study Report* 26 (2017), *https://www.copyright.gov/rulemaking/feestudy2018/fee_study_report.pdf.*

37 CFR Part 222

Claims, Copyright.

37 CFR Part 223

Claims, Copyright.

37 CFR Part 224

Claims, Copyright.

Proposed Regulations

For the reasons stated in the preamble, the U.S. Copyright Office proposes to amend Chapter II, Subchapters A and B, of title 37 Code of Federal Regulations to read as follows:

Subchapter A—Copyright Office and Procedures

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. In § 201.3, revise the section heading and add paragraph (g) to read as follows:

§ 201.3. Fees for registration, recordation, and related services, special services, and services performed by the Licensing Section and the Copyright Claims Board.

* * * * *

(g) *Copyright Claims Board fees.* The Copyright Office has established the following fees for specific services related to the Copyright Claims Board:

TABLE 4 TO PARAGRAPH (g)

Copyright claims board fees	Fees ($)
(1) Filing a claim before the Copyright Claims Board	100
(2) Designation of a service agent by a corporation, partnership, or unincorporated association under 17 U.S.C. 1506(g)(5)(B), or amendment of designation	6
(3) [Reserved]	

Subchapter B—Copyright Claims Board and Procedures

■ 3. Add part 220 to read as follows:

PART 220—GENERAL PROVISIONS

Sec.
220.1 Definitions.

Authority: 17 U.S.C. 702, 1510.

§ 220.1. Definitions.

For purposes of this subchapter:

An *initial notice* means the notice of a proceeding that accompanies a claim or counterclaim in a Copyright Claims Board proceeding as described in 17 U.S.C. 1506(g).

A *second notice* means the notice of a proceeding sent by the Copyright Claims Board as described in 17 U.S.C. 1506(h).

■ 4. Add part 222 read as follows:

PART 222—PROCEEDINGS

Sec.
222.1 [Reserved]
222.2 Initiating a proceeding; the claim.
222.3 Content of initial notice to respondent.
222.4 Second notice by or on behalf of the Board.
222.5 Service; designated service agents.
222.6 Waiver of service.
222.7 Response.
222.8 Counterclaim.
222.9 Response to counterclaim.

Authority: 17 U.S.C. 702, 1510.

§ 222.1 [Reserved]

§ 222.2 Initiating a proceeding; the claim.

(a) *Initiating a proceeding.* A claimant may initiate a proceeding before the Copyright Claims Board by submitting the following information through the electronic filing system—

(1) A claim, using a form provided on the Copyright Claims Board's website;

(2) A completed initial notice, using the form provided on the Copyright Claims Board's website; and

(3) The filing fee set forth in 37 CFR 201.3.

(b) *Electronic filing requirement.* Except as provided, otherwise in this paragraph, to submit the claim and filing fee, the claimant must be a registered user of the Board's electronic filing system. A claimant who is unable to use the electronic filing system and submits the certification provided for in 37 CFR 222.5(e)(2)(ii) may initiate a proceeding by using printed forms and alternate submission instructions provided by the Copyright Claims Board.

(c) *Contents of the claim.* The claim shall include:

(1) A caption, providing the name(s) of the claimant(s) and respondent(s);

(2) Identification of the claims asserted against the respondent(s), which shall consist of at least one of the following:

(i) A claim for infringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106;

(ii) A claim for a declaration of noninfringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106; or,

(iii) A claim under 17 U.S.C. 512(f) for misrepresentation in connection with—

(A) A notification of claimed infringement; or

(B) A counter notification seeking to replace removed or disabled material;

(3) The name(s) and address(es) of the claimant(s);

(4) The name(s) and address(es) of the respondent(s);

(5) For a claim asserted under paragraph (b)(2)(i) of this section—

(i) Whether the claimant is the legal or beneficial owner of rights in a work protected by copyright and, if there are any co-owners, their names;

(ii) The following information for each work at issue in the claim:

(A) The title of the work;

(B) The author(s) of the work;

(C) If a copyright registration has issued for the work, the registration number and effective date of registration;

(D) If an application for copyright registration has been submitted but a registration has not yet issued, the service request number (SR number) and application date; and

(E) The work of authorship's category, as set forth in 17 U.S.C. 102 for each work at issue, or, if the claimant is unable to determine the applicable category, a brief description of the nature of the work.

(iii) A statement describing the facts relating to the alleged infringement, including, to the extent known:

(A) Which exclusive rights as set forth in 17 U.S.C. 106 are at issue;

(B) The beginning date of the alleged infringement;

(C) The name(s) of the person(s) or organization(s) alleged to have infringed the work;

(D) The facts leading the claimant to believe the work has been infringed;

(E) Whether the alleged infringement has continued up to the date the claim was filed, or, if it has not, the date the alleged infringement ceased;

(F) Where the alleged act(s) of infringement occurred; and

(G) If the claim of infringement is asserted against an online service

provider as defined in 17 U.S.C. 512(k)(1)(B) for infringement by reason of the storage of or referral or linking to infringing material that may be subject to the limitations on liability set forth in subsection 17 U.S.C. 512(b), (c), or (d), an affirmance that the claimant has previously notified the service provider of the claimed infringement in accordance with 17 U.S.C. 512(b)(2)(E), (c)(3), or (d)(3), as applicable, and that the service provider failed to remove or disable access to the material expeditiously upon the provision of such notice;

(6) For a claim asserted under paragraph (b)(2)(ii) of this section—

(i) The name of the party who is asserting that the claimant has infringed a copyright;

(ii) The following information for each work alleged to have been infringed, to the extent known to the claimant:

(A) The title;

(B) If a copyright registration has issued for the work, the registration number and effective date of registration;

(C) If an application for copyright has been submitted, but a registration has not yet issued, the service request number (SR number) and registration application date; and

(D) The work's category, as set forth 17 U.S.C. 102, or, if the claimant is unable to determine which category is applicable, a brief description of the nature of the work;

(iii) A brief description of the activity at issue in the claim, including:

(A) Any exclusive rights as set forth in 17 U.S.C. 106 that may be implicated;

(B) The beginning and ending dates of the activities at issue;

(C) Whether the activities at issue have continued to the date the claim was filed;

(D) The name(s) of the person(s) involved in the activities at issue; and

(E) Where the activities at issue occurred;

(iv) A brief statement describing the reasons why the claimant believes that no infringement occurred, including any relevant history or agreements between the parties and whether any exceptions and limitations as set forth in 17 U.S.C. 107 through 122 are implicated;

(7) For a claim asserted under paragraph (b)(2)(iii) under this section—

(i) The sender of the notification of claimed infringement;

(ii) The recipient of the notification of claimed infringement;

(iii) The date the notification of claimed infringement was sent;

(iv) If a counter notification was sent in response to the notification—

(A) The sender of the counter notification;

(B) The recipient of the counter notification;

(C) The date the counter notification was sent; and

(D) A description of the counter notification;

(v) The words in the notification or counter notification that allegedly constituted a misrepresentation;

(vi) An explanation of why the identified words allegedly constituted a misrepresentation; and

(vii) An explanation of how the alleged misrepresentation caused harm to the claimant(s);

(8) A statement describing and estimating the monetary harm suffered by the claimant(s) as a result of the alleged activity. For claims of infringement, this statement may address the copyright owner's actual damages and the profits received by respondent(s) that are attributable to the alleged infringement;

(9) Whether the claimant requests that the proceeding be conducted as a ''smaller claim'' under 17 U.S.C. 1506(z) and 37 CFR part 226, and would accept a limitation on total damages of $5,000 if the request is granted; and

(10) A certification under penalty of perjury that the information provided in the claim is accurate and truthful to the best of the certifying party's knowledge. The certification shall include the typed, printed, or handwritten signature of the claimant(s), and if the signature is handwritten it shall be accompanied by a typed or printed name.

(d) *Additional matter.* The claimant may also include, as attachments to or files accompanying the claim:

(1) A copy of the certificate of copyright registration for a work that is the subject of the proceeding;

(2) A copy of the allegedly infringed work. This copy may also be accompanied by additional information, such as a hyperlink, that shows where the allegedly infringed work has been posted;

(3) A copy of the allegedly infringing material. This copy may also be accompanied by additional information, such as a hyperlink, that shows any allegedly infringing activity;

(4) A copy of the notification of claimed infringement that is alleged to contain the misrepresentation;

(5) A copy of the counter notification that is alleged to contain the misrepresentation; and

(6) Any other exhibits that play a significant role in setting forth the facts of the claim.

§ 222.3 Content of initial notice to respondent.

(a) *Content of initial notice.* The initial notice to the respondent shall be prepared using a form made available by the Copyright Claims Board that shall—

(1) Include on the first page a caption that identifies the parties and includes the docket number assigned by the Board;

(2) Be addressed to the respondent;

(3) Identify the claimant and provide a mailing address and other contact information for the claimant or, if the claimant is represented by counsel, the claimant's counsel;

(4) Advise the respondent that a legal proceeding has been commenced by the claimant(s) in the Board against the respondent;

(5) Identify the nature of the claims asserted against the respondent, which shall consist of at least one of the following:

(i) A claim for infringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106;

(ii) A claim for a declaration of noninfringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106 ; and

(iii) A claim under 17 U.S.C. 512(f) for misrepresentation in connection with a notification of claimed infringement or a counter notification seeking to replace removed or disabled material;

(6) Describe the Board, including that it is a three-member tribunal within the Copyright Office that has been established by law to resolve certain copyright disputes in which the total monetary recovery does not exceed $30,000;

(7) State that the respondent has the right to opt out of participating in the proceeding, and that the consequence of opting out is that the proceeding will be dismissed without prejudice and the claimant will have to determine whether to file a lawsuit in a federal district court;

(8) State that if the respondent does not opt out within 60 days from the day the respondent received the initial notice, the consequences are that the proceeding will go forward and the respondent will—

(i) Lose the opportunity have the dispute decided by the federal court system, created under Article III of the Constitution of the United States; and

(ii) Waive the right to have a trial by jury regarding the dispute;

(9) State that the notice is in regard to an official government proceeding and provide information on how to access the docket of the proceeding in the Board's electronic filing system;

(10) Provide information on how to become a registered user of the Board's electronic filing system;

(11) State that parties may represent themselves in the proceeding, but note that a party may wish to consult with an attorney or with a law school clinic, and provide reference to pro bono (free) resources which may be available and are listed on the Board's website;

(12) Include the name, address, email address, and telephone number of the claimant(s) or, if a claimant is represented by counsel, of the claimant's counsel;

(13) Indicate where other pertinent information concerning proceedings before the Board may be found on the Board's website;

(14) Provide direction on how a respondent may opt out of the proceeding, either online or by mail; and

(15) Include any additional information that the Board may determine should be included.

(b) Following notification from the Board pursuant to section 17 U.S.C. 1506(f)(1)(A) to proceed with service of the claim, the respondent shall cause the initial notice, the claim, the paper opt-out notification form, and any other documents required by the direction of the Board to be served with the initial notice and the claim, upon each respondent as prescribed in 37 CFR 222.5(a) and 17 U.S.C. 1506(g). The copy of the claim that is served shall be the copy that is, at the time of service, available on the Board's electronic filing system.

§ 222.4 Second Notice by or on behalf of the Board.

(a) *Content of second notice.* The second notice to the respondent shall:

(1) Include on the first page a caption identifying the parties and the docket number;

(2) Be addressed to the respondent, using the address that appeared in the initial notice;

(3) Include the claimant identification and contact information from the initial notice;

(4) Advise the respondent that a legal proceeding has been commenced by the claimant(s) in the Copyright Claims Board against the respondent;

(5) Identify the nature of the claims asserted against the respondent, which shall consist of at least one of the following:

(i) A claim for infringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106;

(ii) A claim for a declaration of noninfringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106; and

(iii) A claim under 17 U.S.C. 512(f) for misrepresentation in connection with—

(A) A notification of claimed infringement; or

(B) A counter notification seeking to replace removed or disabled material.

(6) State that the respondent has the right to opt out of participating in the proceeding, and that the consequence of opting out is that the proceeding will be dismissed without prejudice and the claimant will have to determine whether to file a lawsuit in a federal district court;

(7) State that if the respondent does not opt out within 60 days from the day the respondent received the initial notice, the consequences are that the proceeding will go forward and the respondent will—

(i) Lose the opportunity have the dispute decided by the federal court system, created under Article III of the Constitution of the United States; and

(ii) Waive the right to have a trial by jury regarding the dispute;

(8) Provide information on how to access the docket of the proceeding in the Board's electronic filing system;

(9) Provide information on how to become a registered user of the Board's electronic filing system;

(10) State that parties may represent themselves in the proceeding, but note that a party may wish to consult with an attorney or with a law school clinic, and provide reference to pro bono (free) resources which may be available and are listed on the Board's website;

(11) Include the name, address, email address, and telephone number of the claimant(s) or, if a claimant is represented by counsel, of the claimant's counsel;

(12) Indicate where other pertinent information concerning proceedings before the Board may be found on the Board's website;

(13) Provide direction on how a respondent may opt out of the proceeding, either by online or by mail; and

(14) Include any additional information that the Board may determine should be included.

(b) *Timing of second notice.* The Board shall issue the second notice in the manner prescribed by 37 CFR 222.5 no later than 20 days after the claimant files proof of service or a completed waiver of service with the Board unless the respondent has already submitted an opt-out notification pursuant to 37 CFR 223.1.

§ 222.5 Service; designated service agents.

(a) *Service of initial notice, claim, and related documents*—(1) *Timing of service.* A claimant or counterclaimant may proceed with service of a claim or counterclaim only after the claim or counterclaim is reviewed by a Copyright Claims Officer and found to comply with this part and 17 U.S.C. chapter 15.

(2) *Service methods.* Service of the initial notice, the claim, and other documents required by this part or the Copyright Claims Board to be served with the initial notice and claim shall be made as provided under 17 U.S.C. 1506(g), as supplemented by this section. If service is made upon a service agent designated under 17 U.S.C. 1506(g)(5)(B), service shall be made by certified mail or by any other method that the entity that has designated the service agent has stated, in its designation under § 222.5(b)(7), that it will accept.

(3) *Filing of proof of service.* (i) No later than seven calendar days after service of the initial notice and all accompanying documents under paragraph (a)(2) of this section, a claimant shall file a completed proof of service form through the Board's electronic filing system. The proof of service form shall be located on the Board's website.

(ii) The claimant's failure to comply with the filing deadline in paragraph (a)(1) of this section may constitute exceptional circumstances justifying an extension of the 60-day period in which a respondent may deliver an opt-out notification to the Board under 17 U.S.C. 1506(i).

(b) *Designated service agents.* (1) A corporation, partnership, or unincorporated association that is entitled under 17 U.S.C. 1506(g)(5)(B) to designate a service agent to receive notice of a claim shall submit the designation electronically through the Copyright Claims Board's designated service agent directory, which shall be available on the Board's website.

(2) A service agent designation shall be accompanied by the fee set forth in 37 CFR 201.3.

(3) Each corporation, partnership, or unincorporated association that submits a service agent designation may include up to five trade names that function as alternate business names (*i.e.,* ''doing business as'' or ''d/b/a'' names) under which a registered corporation, partnership, or unincorporated association is doing business. Related or affiliated corporations, partnerships, or unincorporated associations that are separate legal entities (*e.g.,* parent and subsidiary companies) must file separate service agent designations, although a submitter may designate the same service agent for multiple

corporations, partnerships, or unincorporated associations.

(4) To complete the designation, the person submitting the designation will be required to make a certification, under penalty of perjury, that the submitter is authorized by law to make the designation on behalf of the corporation, partnership, or unincorporated association.

(5) The designated service agent submission shall include:

(i) The legal name, business address, email, and telephone number of the corporation, partnership, or unincorporated association;

(ii) The principal place of business of the corporation, partnership, or unincorporated association;

(iii) For corporations, the state of incorporation, any associated state file or registration number, and all other states in which the corporation is registered to do business;

(iv) Up to five trade names of the corporation, partnership, or unincorporated association, as described by paragraph (b)(3) of this section;

(v) The name, business address (or, if the agent does not have a business address, the address of the residence of), email, and telephone number of the designated service agent;

(vi) The submitter's name, email, and telephone number; and

(vii) The corporation, partnership, or unincorporated association's service method election, as described in paragraph (b)(7) of this section.

(6) The designation shall be indexed under the names of each corporation, partnership, or unincorporated association for which an agent has been designated and shall be made available on the Board's website. The business address, email, and telephone number of the corporation, partnership, or unincorporated association provided under paragraph (b)(5)(i) of this section will not be made publicly available on the designated service agent directory website, but such information will be made available to Board staff.

(7)(i) A corporation, partnership, or unincorporated association that designates a service agent shall, as a condition of designating a service agent, consent to receive service upon the agent by means of certified mail. It may also indicate in its designation that it consents to receive service by email.

(ii) If a corporation, partnership, or unincorporated association indicates that it consents to receive service by email, the designated service agent's email address will be displayed on the designated service agent directory.

(iii) In cases where the designation states that service may be made by email, the person submitting the designation shall affirm under penalty of perjury that the corporation, partnership, or unincorporated association for which the agent has been designated waives the right to personal service by means other than email and that the person making the designation has the authority to waive that right on behalf of the corporation, partnership, or unincorporated association.

(iv) The corporation, partnership, or unincorporated association's service agent's place of business or, if there is no place of business, the address of the service agent's residence, must be located within the United States.

(8) A corporation, partnership, or unincorporated association may amend a designation of a service agent by following directions on the Board's website.

(i) Such amendment shall be accompanied by the fee set forth in 37 CFR 201.3.

(ii) The requirements found in paragraph (b) of this section shall apply to the service agent designation amendment.

(9) After a corporation, partnership, or unincorporated association submits a service agent designation, such designation will be made available on the public designated service agent directory after payment has been remitted and the Board has reviewed the submission to determine whether the submission qualifies for the designated agent provision. The review may include confirmation that the submission was authorized.

If the Board determines that a submitted service agent designation does not qualify under this section or if it has reason to believe that the submitter was not authorized by law to make the designation on behalf of the corporation, partnership, or unincorporated association, it will notify the submitter that it intends not to add the record to the directory, or that it intends to remove (or not approve) the record from the directory and will provide the submitter ten calendar days to respond. If the submitter fails to respond, or if, after reviewing the response, the Board determines that the submission does not qualify for the designated service agent directory, the entity will not be added to, or will be removed from, the directory.

(c) *Waiver of personal service.* Waiver of personal service may be completed by following the procedures in 37 CFR 222.6.

(d) *Service of other documents.* All documents other than those identified in paragraph (a) of this section must be served in accordance with this paragraph.

(1) *Service by the Copyright Claims Board.*

(i) Except as provided in paragraph (d)(1)(ii) of this section, the Board shall serve one copy of all orders, notices, decisions, rulings on motions, and similar documents issued by the Board upon each party in accordance with paragraph (d)(3) of this section.

(ii)(A) The Board shall serve the second notice required under 17 U.S.C. 1506(h), along with a copy of the paper opt-out notification form, by sending them via certified mail to the respondent at the address provided—

(1) In the designated service agent directory, if the respondent is a corporation, partnership, or unincorporated association that has designated a service agent; and otherwise

(2) By the claimant in the claim.

(B) The Board shall also serve the second notice by email if an email address for the respondent has been provided in the designated service agent directory or by the claimant.

(2) *Service by a party.* Unless these regulations or the Board provides otherwise, each party to a proceeding shall serve on every other party each of the following documents in the manner prescribed in paragraph (d)(3) of this section:

(i) Any document filed by the respondent other than an opt-out notification;

(ii) Any document filed by the claimant following the service of the initial notice and the claim;

(iii) A discovery document required to be served on a party;

(iv) A party submission filed with the Board pursuant to 17 U.S.C. 1506(m);

(v) A written notice of appearance or any similar document; and

(vi) Any other document permitted to be filed by the Board.

(3) *Service of other documents: How made.*—(i) *Service on whom.*

(A) If a party is represented by an attorney or authorized representative, service under this rule must be made on the attorney or authorized representative unless the Board orders service on the party.

(B) If a party is not represented, service under this rule must be made on the party.

(ii) *Service in general.* (A) A document is served under this paragraph by sending it to a registered user by filing it with the Board's electronic filing system or sending it by

other electronic means that the person to be served consented to in writing. For these service methods, service is complete upon filing or sending, respectively, but is not effective if the filer or sender learns that it did not reach the person to be served.

(B) A party who is not represented by counsel and who submits a certification pursuant to 37 CFR 222.5(e)(2)(ii) and serves that certification upon the other parties by one of the methods set forth in paragraphs (d)(1), (2), or (3) of this section may be excused from serving documents and receiving service of documents electronically by the means set forth in paragraph (d)(3)(ii)(A) of this section. Service of a document by or upon such a person shall be accomplished by—

(1) Mailing it to the person's last known address, in which event service is complete upon mailing it to the person;

(2) Emailing it to the person, if the person has consented to receive service by email;

(3) Handing it to the person;

(4) Leaving it at the person's office with a clerk or other person in charge or in a conspicuous place in the office;

(5) Leaving it at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there.

(e) *Filing*—(1) *Required filings and certificate of service.* Other than service of the initial notice and claim, any document that is required to be served—together with a certificate of service in cases where a certificate of service is required—must be filed with the Board within a reasonable time after service, but no later than thirty days after service was completed. Notwithstanding the above, unless the Board orders otherwise, discovery requests and responses must not be filed unless they are used in the proceeding, as needed, in relation to discovery disputes or submissions on the merits.

(2) How filing is made—in general. (i) A document is filed by submitting it electronically to the Board's electronic filing system.

(ii) A party who is not represented by counsel may be excused from the requirements set forth in 37 CFR 222.5(e)(1) by submitting a statement to the Board certifying under penalty of perjury that the party is unable to use the Board's electronic filing system or that doing so would cause an undue hardship. The party must submit this statement on a form obtained from the Board. A party who submits such a statement may, file a document by—

(A) Email, to an email address as directed by the Board;

(B) Mail, by placing it in an envelope addressed to Copyright Claims Board, Library of Congress, James Madison Memorial Building, 101 Independence Avenue SE, Washington, DC 20559–6000 or P.O. Box 71380, Washington, DC 20024–1380, with postage prepaid, and depositing it with the United States Postal Service or major commercial carrier, such as UPS or FedEx, for delivery;

(C) Hand delivery by a private party between the hours of 8:30 a.m. and 5:00 p.m. to the Copyright Office Public Information Office, Room LM–401 in the James Madison Memorial Building of the Library of Congress, in an envelope addressed as follows: Copyright Claims Board, U.S. Copyright Office, Library of Congress, James Madison Memorial Building, 101 Independence Avenue SE, Washington, DC 20559; or,

(D) Hand delivery by a commercial courier (excluding FedEx, UPS, and similar courier services); the envelope must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street NE, Washington, DC, addressed as follows: Copyright Claims Board, Library of Congress, James Madison Memorial Building, 101 Independence Avenue SE, Washington, DC 20559–6000.

(3) *Certificate of service.* (i) Except as provided in paragraph (e)(2) of this section, every document filed with the Board and required to be served upon all parties must be accompanied by a certificate of service signed by (or on behalf of) the party making the service.

(ii) For any filing that occurs after the filing of a response, no certificate of service is required when a document is served by filing it with the Copyright Claims Board's electronic filing system.

§ 222.6 Waiver of service.

(a) *Content of waiver of service request.* The request for waiver of service form shall:

(1) Bear the name of the Copyright Claims Board;

(2) Include on the first page and waiver page the caption identifying the parties and the docket number;

(3) Be addressed to the respondent;

(4) Contain the date of the request;

(5) Notify the respondent that a legal proceeding has been commenced by the claimant(s) in the Board against the Respondent;

(6) Advise that the form is not a summons or official notice from the Board;

(7) Request that respondent waive formal service of summons by signing the enclosed waiver;

(8) State that a waiver of personal service shall not constitute a waiver of the right to opt out of the proceeding.

(9) Describe the effect of agreeing or declining to waive service;

(10) Include a waiver of personal service provided by the Board for respondent to sign that includes:

(i) An affirmation that the respondent is waiving service;

(ii) An affirmation that waiving service does affect respondent's ability to opt out of the proceeding;

(iii) An affirmation that respondent understands the requirement to opt out within 60 days of receiving the request;

(iv) The name, address, email address, and telephone number of the respondent; and

(v) The typed, printed, or handwritten signature of the respondent, and if the signature is handwritten it shall be accompanied by a typed or printed name.

(b) *Delivery of request for waiver of service.* A claimant may request that a respondent waive personal service as provided by 17 U.S.C. 1506(g)(6) by delivering, via first class mail, the following to the respondent:

(1) A completed waiver of personal service form provided on the Board's website;

(2) The documents described in 37 CFR 222.3, including the initial notice and the claim; and

(3) An envelope, with postage prepaid and addressed to the claimant.

(c) *Completing waiver of service.* The respondent may complete waiver of service by returning the signed waiver form in the postage prepaid envelope to claimant by mail or, if the claimant also provides an email address to which the waiver of personal service form may be returned, by means of an email to which a copy of the signed form is attached. Waiving service does affect respondent's ability to opt out of proceedings.

(d) *Timing of completing waiver.* The respondent has 30 days from the date on which the request was sent to return the waiver form.

§ 222.7 Response.

(a) *Filing a response.* A respondent who does not opt out within 60 days after receiving the initial notice shall begin participation before the Board by submitting a response through the electronic filing system using the response form provided by the Board, and serving the response form in the manner set forth in 37 CFR 222.5(d). Except as provided in this paragraph, to submit the response, the respondent must be a registered user of the electronic filing system. A respondent who is unable to use the electronic

filing system and submits the certification provided for in 37 CFR 222.5(e)(2)(ii) may file a response by using printed forms and alternate submission instructions provided by the Board.

(b) *Content of response.* The response shall include:

(1) A caption identifying the parties and the docket number assigned by the Board;

(2) The name, address, phone number, and email of each respondent filing the response;

(3) A short statement, if applicable, disputing any facts asserted in the claim;

(4) For claims brought under 17 U.S.C. 1504(c)(1), a statement describing in detail the dispute regarding the alleged infringement, including any defenses as well as any reason why the Respondent believes there was no copyright infringement, including whether any exceptions and limitations as set forth in 17 U.S.C. 107 through 122 that are implicated;

(5) For claims brought under 17 U.S.C. 1504(c)(2), a statement describing in detail the dispute regarding the alleged infringement, including reasons why the respondent believes there was copyright infringement;

(6) For claims brought under 17 U.S.C. 1504(c)(3), a statement describing in detail the dispute regarding the alleged misrepresentation and an explanation of why the respondent believes the identified words do not constitute misrepresentation;

(7) Any counterclaims; and

(8) A certification under penalty of perjury that the information provided in the response is accurate and truthful to the best of the certifying party's knowledge. The certification shall include the typed, printed, or handwritten signature of the respondent(s), and if the signature is handwritten it shall be accompanied by a typed or printed name.

(c) *Additional matter.* The respondent may also include, as attachments to or files that accompany the Response:

(1) A copy of the certificate of copyright registration for a work that is the subject of the proceeding;

(2) A copy of the allegedly infringed work. This copy may also be accompanied by additional information, such as a hyperlink, that shows where the allegedly infringed work has been posted;

(3) A copy of the allegedly infringing material. This copy may also be accompanied by additional information, such as a hyperlink, that shows any allegedly infringing activity;

(4) A copy of the notification of claimed infringement that is alleged to contain the misrepresentation;

(5) A copy of the counter notification that is alleged to contain the misrepresentation; and

(6) Any other exhibits that play a significant role in setting forth the facts of the response.

(d) *Timing of response.* The respondent has 30 days from the issuance of the scheduling order to submit a response. If the respondent waived service, the respondent has an additional 30 days to submit the response.

(e) *Failure to file response.* A failure to file a response within the required timeframe will constitute a default under 17 U.S.C. 1506(u), and the Board will begin proceedings in accordance with 37 CFR 227.

§ 222.8 Counterclaim.

(a) *Asserting a counterclaim.* Any party can assert a counterclaim falling under the jurisdiction of the Board that—

(1) Arises out of the same transaction or occurrence as the initial claim; or

(2) Arises under an agreement pertaining to the same transaction or occurrence that is subject to an initial claim of infringement, if the agreement could affect the relief awarded to the claimant.

(b) *Electronic filing requirement.* A party may submit a counterclaim through the electronic filing system using the response form or counterclaim form provided by the Board, and serving the counterclaim as provided in § 222.5. Except as otherwise provided in this paragraph, to submit the counterclaim, the respondent must be a registered user of the electronic filing system. A respondent who is unable to use the electronic filing system and submits the certification provided for in 37 CFR 222.5(e)(2)(ii) may submit a counterclaim by using printed forms and alternate submission instructions provided by the Board.

(c) *Content of counterclaim.* The counterclaim shall include:

(1) The name of the party against whom the counterclaim is asserted;

(2) An identification of the counterclaim, which shall consist of at least one of the following:

(i) A claim for infringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106;

(ii) A claim for a declaration of noninfringement of an exclusive right in a copyrighted work provided under 17 U.S.C. 106; and

(iii) A claim under 17 U.S.C. 512(f) for misrepresentation in connection with—

(A) A notification of claimed infringement; or

(B) A counter notification seeking to replace removed or disabled material.

(3) For a counterclaim asserted under paragraph (b)(2)(i) of this section—

(i) Whether the counterclaimant is the legal or beneficial owner of rights in a work protected by copyright and, if there are any co-owners, their names;

(ii) The following information for each work at issue in the claim:

(A) The title of the work;

(B) The author(s) of the work;

(C) If a copyright registration has issued for the work, the registration number and effective date of registration;

(D) If an application for copyright has been submitted but a registration has not yet issued, the service request number (SR number) and registration application date; and

(E) The work's category, as set forth in 17 U.S.C. 102, or, if the counterclaimant is unable to determine which category is applicable, a brief description of the nature of the work;

(iii) A statement describing the facts relating to the alleged infringement, including, to the extent known:

(A) Which exclusive rights as set forth in 17 U.S.C 106 are at issue;

(B) The beginning date of the alleged infringement;

(C) The name(s) of the person(s) or organization(s) alleged to have infringed the work;

(D) The nature of the alleged infringement;

(E) Whether the alleged infringement has continued up to the date the claim was filed, or, if it has not, the date the alleged infringement ceased;

(F) Where the alleged act(s) of infringement occurred; and

(G) If the claim of infringement is asserted against an online service provider as defined in 17 U.S.C. 512(k)(1)(B) for infringement by reason of the storage of or referral or linking to infringing material that may be subject to the limitations on liability set forth in subsection 17 U.S.C. 512(b), (c), or (d), an affirmance that the counterclaimant has previously notified the service provider of the claimed infringement in accordance with 17 U.S.C. 512(b)(2)(E), (c)(3), or (d)(3), as applicable, and that the service provider failed to remove or disable access to the material expeditiously upon the provision of such notice;

(4) For a counterclaim asserted under paragraph (b)(2)(ii) of this section—

(i) The name of the party who is asserting that the counterclaimant has infringed a copyright;

(ii) The following information for each work alleged to have been

infringed, if that information is known to the counterclaimant:

(A) The title;

(B) If a copyright registration has issued for the work, the registration number and effective date of registration;

(C) If an application for copyright has been submitted, but a registration has not yet issued, the service request number (SR number) and registration application date; and

(D) The work's category, as set forth 17 U.S.C. 102, or, if the counterclaimant is unable to determine which category is applicable, a brief description of the nature of the work;

(iii) A brief description of the activity at issue in the claim, including:

(A) Any exclusive rights as set forth in 17 U.S.C. 106 that may be implicated;

(B) The beginning and ending dates of the activities at issue;

(C) Whether the activities at issue have continued to the date the claim was filed;

(D) The name(s) of the person(s) involved in the activities at issue; and

(E) Where the activities at issue occurred;

(iv) A brief statement describing the reasons why the counterclaimant believes that no infringement occurred, including any relevant history or agreements between the parties and whether any exceptions and limitations as set forth in 17 U.S.C. 107 through 122 are implicated;

(5) For a counterclaim asserted under paragraph (b)(2)(iii) of this section—

(i) The sender of the notification of claimed infringement;

(ii) The recipient of the notification of claimed infringement;

(iii) The date the notification of claimed infringement was sent;

(iv) If a counter notification was sent in response to the notification—

(A) The sender of the counter notification;

(B) The recipient of the counter notification;

(C) The date the counter notification was sent; and

(D) A description of the counter notification;

(v) The words in the notification or counter notification that allegedly constituted a misrepresentation;

(vi) An explanation of why the identified words allegedly constituted a misrepresentation; and

(vii) An explanation of how the alleged misrepresentation caused harm to the counterclaimant(s);

(6) A statement describing the harm suffered by the counterclaimant(s) as a result of the alleged activity. For claims of infringement, this statement may include a description of the profits attributable to the alleged infringement received by the counterclaimant(s) against whom the counterclaim is asserted.

(7) A statement describing the relationship between the initial claim and the counterclaim; and

(8) A certification under penalty of perjury that the information provided in the counterclaim is accurate and truthful to the best of the certifying party's knowledge. The certification shall include the typed, printed, or handwritten signature of the counterclaimant(s), and if the signature is handwritten it shall be accompanied by a typed or printed name.

(d) *Additional matter.* The counterclaimant may also include, as attachments to or files that accompany the counterclaim:

(1) A copy of the certificate of copyright registration for a work that is the subject of the proceeding;

(2) A copy of the allegedly infringed work. This copy may also be accompanied by additional information, such as a hyperlink, that shows where the allegedly infringed work has been posted;

(3) A copy of the allegedly infringing material. This copy may also be accompanied by additional information, such as a hyperlink, that shows any allegedly infringing activity;

(4) A copy of the notification of claimed infringement that is alleged to contain the misrepresentation;

(5) A copy of the counter notification that is alleged to contain the misrepresentation; and

(6) Any other exhibits that play a significant role in setting forth the facts of the counterclaim.

(e) *Timing of counterclaim.* A counterclaim must be served and filed at the time of the response unless the Board, for good cause, permits a counterclaim to be asserted at a subsequent time.

§ 222.9 Response to counterclaim.

(a) *Filing a response to a counterclaim.* Within 30 days following the Board's issuance of notification that a counterclaim is compliant in accordance with 37 CFR part 224, a claimant against whom a counterclaim has been asserted (''counterclaim respondent'') shall serve a response to the counterclaim in the manner set forth in 37 CFR 222.5(d) and shall file the response to the counterclaim with the Board in the manner set forth in 37 CFR 222.5(e).

(b) *Content of response to a counterclaim.* The response to a counterclaim shall include:

(1) A caption identifying the parties and the docket number;

(2) The name, address, phone number, and email address of each counterclaim respondent filing the response;

(3) A short statement, if applicable, disputing any facts asserted in the counterclaim;

(4) For counterclaims brought under 17 U.S.C. 1504(c)(1), a statement describing in detail the dispute regarding the alleged infringement, including any defenses as well as any reason why the counterclaim respondent believes there was no infringement of copyright, including any exceptions and limitations as set forth in 17 U.S.C. 107 through 122 that are implicated;

(5) For counterclaims brought under 17 U.S.C. 1504(c)(2), a statement describing in detail the dispute regarding the alleged infringement, including reasons why the counterclaim respondent believes there is infringement of copyright;

(6) For counterclaims brought under 17 U.S.C. 1504(c)(3), a statement describing in detail the dispute regarding the alleged misrepresentation and an explanation of why the counterclaim respondent believes the identified words do not constitute misrepresentation; and

(7) A certification under penalty of perjury that the information provided in the response to the counterclaim is accurate and truthful to the best of the certifying party's knowledge. The certification shall include the typed, printed, or handwritten signature of the Counterclaim Respondent(s), and if the signature is handwritten it shall be accompanied by a typed or printed name.

(c) *Additional matter.* The counterclaim respondent may also include, as attachments to or files that accompany the counterclaim response:

(1) A copy of the certificate of copyright registration for a work that is the subject of the proceeding;

(2) A copy of the allegedly infringed work. This copy may also be accompanied by additional information, such as a hyperlink, that shows where the allegedly infringed work has been posted;

(3) A copy of the allegedly infringing material. This copy may also be accompanied by additional information, such as a hyperlink, that shows any allegedly infringing activity;

(4) A copy of the notification of claimed infringement that is alleged to contain the misrepresentation;

(5) A copy of the counter notification that is alleged to contain the misrepresentation; and

(6) Any other exhibits that play a significant role in setting forth the facts of the counterclaim response.

(d) *Failure to file counterclaim response.* A failure to file a counterclaim response within the required timeframe will constitute a default under 17 U.S.C. 1506(u), and the Board will begin proceedings in accordance with 37 CFR 227.

PART 223—OPT-OUT PROVISIONS

■ 5. The authority citation for part 223 continues to read as follows:

Authority: 17 U.S.C. 702, 1510.

■ 6. Revise § 223.1 to read as follows:

§ 223.1 Respondent's opt-out.

(a) *Effect of opt-out on particular proceeding.* A respondent may opt out of a proceeding before the Board pursuant to 17 U.S.C. 1506(i) following the procedures set forth in this regulation. A respondent's opt out will result in the dismissal of the claim without prejudice.

(b) *Content of opt-out notification.* The respondent's opt-out notification shall include:

(1) The docket number assigned by the Board and contained in either the *initial notice* served by the claimant or the second notice;

(i) The respondent's name;

(ii) The respondent's address;

(2) The respondent's affirmation that the respondent will not appear before the Board with respect to the claim served by the claimant;

(3) A certification under penalty of perjury that the individual completing the notification is the respondent identified in the claim served by the claimant; and

(4) The typed, printed, or handwritten signature of the respondent, and if the signature is handwritten, it shall be accompanied by a typed or printed name.

(c) *Process of opting out.* Upon being properly served with a notice and claim, a respondent may complete the opt-out process by—

(1) Completing and submitting the online opt-out notification form identified in the initial notice and second notice and made available on the Board's website. An online opt-out is not complete unless a confirmation code provided with the initial notice or second notice is included in the submission; or,

(2) Completing the paper opt-out notification form included with the initial notice and second notice and delivering it to the Board, by one of the methods described in 37 CFR 222.5(e)(ii)(A) through (D).

(d) *Timing of opt-out.* The respondent has 60 days from the date of service or waiver of service to provide notice of its opt-out election. When the last day of that period falls on a weekend or a Federal holiday, the ending date shall be extended to the next Federal work day.

(1) When opting out via the online form under paragraph (c)(1) of this section, the respondent's opt out notification must be completed by midnight Eastern Time on the last day of the opt out period.

(2) When opting out under paragraph (c)(2) of this section, the respondent's opt out notification must be postmarked, dispatched by a commercial carrier, courier, or messenger, or hand delivered to the Office no later than the 60 day deadline.

(e) *One opt-out per respondent.* In claims involving multiple respondents, each respondent who elects to opt out must separately complete the opt-out process.

(f) *Confirmation of opt-out.* When a respondent has completed the opt-out process, the Board will notify all parties to the proceeding.

(g) *Effect of opt-out on refiled claims.* If the claimant attempts to refile a claim against the same respondent(s), covering the same acts and the same theories of recovery after the respondent's initial opt-out notification, the Board will apply the prior opt-out election and dismiss the claim.

(h) *Effect of opt-out on unrelated claims.* The respondent's opt-out for a particular claim will not be construed as an opt-out for claims involving different acts or different theories of recovery.

■ 7. Add part 224 to read as follows:

PART 224—REVIEW OF CLAIMS BY OFFICERS AND ATTORNEYS

Sec.
224.1 Compliance review.
224.2 Dismissal for unsuitability.

Authority: 17 U.S.C. 702, 1510.

§ 224.1 Compliance review.

(a) *Compliance review by Copyright Claims Attorney.* Upon the filing of a claim or counterclaim with the Board, a Copyright Claims Attorney shall review the claim for compliance as provided in this section.

(b) *Substance of compliance review.* The Copyright Claims Attorney shall review the claim or counterclaim for compliance with all legal and formal requirements for a claim or counterclaim before the Board, including:

(1) The provisions set forth under this subchapter;

(2) The requirements set forth in 17 U.S.C. 1504(c), (d), and (e)(1); and

(3) Whether the allegations in the claim or the counterclaim clearly do not state a claim upon which relief can be granted.

(c) *Issuing finding.* Upon completing a compliance review, the Copyright Claims Attorney will notify the party that submitted the document in accordance with 37 CFR 222.5 and 17 U.S.C. 1506(f) by—

(1) Informing the claimant or counterclaimant that the claim or counterclaim has been found to comply with the applicable statutory and regulatory requirements and instructing the claimant to proceed with service under 37 CFR 222.5 and 17 U.S.C. 1506(e); or

(2) Informing the claimant or counterclaimant that the claim or counterclaim, respectively, does not comply with the applicable statutory and regulatory requirements and identifying the noncompliant issue(s) according to the procedure set forth in 17 U.S.C. 1506(f).

(d) *Clearance is not endorsement.* The finding that a claim or counterclaim complies with the applicable statutory and regulatory requirements does not constitute a determination as to the validity or of the allegations asserted or other statements made in the claim or counterclaim.

(e) *No factual investigations.* For the purpose of the compliance review, the Copyright Claims Attorney shall accept the facts stated in the claim or counterclaim materials, unless they are contradicted by information provided elsewhere in the materials or in the Board's records. The Copyright Claims Attorney will not conduct an investigation or make findings of fact; however, the Copyright Claims Attorney may take administrative notice of facts or matters that are well known to the general public, and may use that knowledge during review of the claim or counterclaim.

§ 224.2 Dismissal for unsuitability.

(a) *Review by Copyright Claims Attorney.* During the review of the claim under 37 CFR 224.1, the Copyright Claims Attorney shall review the claim or counterclaim for unsuitability on grounds set forth in 17 U.S.C. 1506(f)(3). If the Copyright Claims Attorney concludes that the claim should be dismissed for unsuitability, the Copyright Claims Attorney shall recommend to the Copyright Claims Board that the Board dismiss the claim and shall set forth the basis for that conclusion.

(b) *Dismissal by the Board for unsuitability.* (1) If, upon recommendation by a Copyright Claims Attorney as set forth in paragraph (a) of this section or at any other time in the proceeding upon the suggestion of a party or on its own initiative, the Board determines that a claim or counterclaim should be dismissed for unsuitability under 17 U.S.C. 1506(f)(3), the Board shall issue an order stating its intention to dismiss the claim without prejudice.

(2) Within 30 days following issuance of an order under paragraph (b) of this section, the claimant or counterclaimant may request that the Board reconsider its determination. The respondent or counterclaim respondent may file a response within 30 days following service of the claimant's request.

(3) Following the expiration of the time for the respondent or counterclaim respondent to submit a response, the Board shall render its final decision whether to dismiss the claim for unsuitability.

Dated: September 15, 2021.

Kevin R. Amer,

Acting General Counsel and Associate Register of Copyrights.

[FR Doc. 2021–20303 Filed 9–28–21; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 13

RIN 2900–AR11

Fiduciary Bond

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations that govern fiduciary activities. More specifically, the proposed amendments would revise specific procedures to exempt a VA-appointed fiduciary who is also serving as a court-appointed fiduciary from posting multiple bonds and to also exempt a VA-appointed fiduciary that is also a State agency with existing, State-mandated liability insurance or a blanket bond from having to obtain an additional bond payable to the Secretary of Veterans Affairs.

DATES: Comments must be received by VA on or before November 29, 2021.

ADDRESSES: Comments may be submitted through *www.Regulations.gov.* Comments should indicate that they are submitted in response to RIN 2900–AR11—Fiduciary Bond. Comments received will be available at *www.regulations.gov* for public viewing, inspection or copies.

FOR FURTHER INFORMATION CONTACT: David Klusman, Lead Program Analyst, Pension and Fiduciary Service (21PF), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW, Washington, DC 20420; (202) 632–8863. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA administers a fiduciary program for beneficiaries who, as a result of injury, disease, the infirmities of advanced age, or being less than 18 years of age, cannot manage their own VA benefits. Under this program, VA oversees these vulnerable beneficiaries, and appoints and oversees fiduciaries who manage these beneficiaries' benefits. VA's current statutory authority for this program is in 38 U.S.C. chapters 55 and 61.

VA is authorized to issue payments to and supervise fiduciaries acting on behalf of beneficiaries under 38 U.S.C. 5502. In 2004, Congress amended 38 U.S.C. chapters 55 and 61 to add new provisions which, among other things, authorize VA to conduct specific investigations regarding the fitness of individuals to serve as fiduciaries and reissue certain benefits misused by fiduciaries. In relevant part, the law provides that any certification of a person as a fiduciary shall be made on the basis of ''the furnishing of any bond that may be required by the Secretary.'' 38 U.S.C. 5507(a)(3). On its face, this statutory language provides VA with authority to decide whether to require a bond.

Under certain circumstances, if a fiduciary misuses benefits, the law requires that the Secretary pay the beneficiary an amount equal to the amount of benefits that were misused. 38 U.S.C. 6107. In 2018, VA amended its fiduciary program regulations to implement current law. Fiduciary Activities, 83 FR 32716 (July 13, 2018).

As stated above, in some cases, fiduciaries are required to obtain a surety bond in order to protect the beneficiaries' benefits. However, there is conflicting information in VA regulations pertaining to bond requirements for fiduciaries. Specifically, 38 CFR 14.709 provides that VA's general policy is to require a surety bond that follows State laws and court rules from a court-appointed individual fiduciary. Further, the regulation indicates approved alternative methods to a corporate surety bond and authorizes the acceptance of a lesser degree of protection of funds under certain circumstances. However, 38 CFR 13.230, which was promulgated in 2018 when VA amended its fiduciary program regulations, requires that any bond furnished by a fiduciary ''[c]ontain a statement that the bond is payable to the Secretary of Veterans Affairs.'' 38 CFR 13.230(d)(3)(ii). VA's final rule that amended 38 CFR part 13 went into effect on August 13, 2018. 83 FR 32716. When it was promulgated, VA explicitly stated that ''[w]e intend to issue uniform rules for all VA-appointed fiduciaries, such as allowable fees, surety bond requirements and appropriate investments, to include fiduciaries who also serve as court-appointed guardians for beneficiaries.'' *Id.* at 32727. The rule noted that ''VA's fiduciary regulations will result in a gradual discontinuance of the current practice of recognizing a court-appointed guardian or fiduciary for purposes of receiving VA benefits on behalf of a VA beneficiary'' and that, ''VA will establish a national standard for appointing and overseeing fiduciaries.'' *Id.* at 32735. VA noted in the final rule that, ''[b]ased on our experience in administering the program, the risks of not requiring all fiduciaries, with the [general] exception of spouses, to furnish a surety bond significantly outweigh any burden on a prospective fiduciary.'' *Id.* at 32727. VA set forth a number of factors that weigh in favor of requiring a bond: (1) It serves as a screening tool for VA to use in confirming qualification for appointment—in other words, if a fiduciary cannot obtain a bond because the bonding company considers the risk of fund exploitation too high, VA will not appoint the prospective fiduciary; (2) it is consistent with VA's oversight obligations, which include deterring fiduciary misuse of benefits; and (3) it puts a fiduciary on notice that he or she is liable to a third party for any payment on the bond. *Id.* With the 2018 amendment, VA also promulgated additional bond requirements under § 13.230(d) in order to protect a beneficiary's interests if a fiduciary misuses funds, including a requirement that the bond be payable to the Secretary. More recently, in January 2021, Congress enacted Public Law 116–315, which amended 38 U.S.C. 6107(b), to require VA to reissue misused funds to all beneficiaries, regardless of whether VA negligence was involved.

Under current § 13.410(c), VA must attempt to recoup any misused benefits, either from the surety company or, if no bond is in place, from the fiduciary directly. VA then must reissue any recouped benefits to the beneficiary's fiduciary successor to the extent they

were not already reissued. Under § 13.230(g), bond expenses may be deducted from the beneficiary's account so that the fiduciary does not have to pay for them out of pocket. Although this cuts into the amount of benefits the beneficiary ultimately receives, VA noted that this provision is ''consistent with the protection of funds in guardianships under state and uniform laws.'' 79 FR 430, 442 (Jan. 3, 2014). While it seems redundant for VA to require a separate bond from a VA-appointed fiduciary who also is serving as a court-appointed fiduciary, VA instituted uniform surety bond requirements as an additional safeguard to ''protect the beneficiary's funds.'' 83 FR 32727. In theory, requiring that a VA-appointed fiduciary obtain a bond that is payable to the Secretary ensures that VA will be able to recoup any misused funds from the surety company rather than having to initiate a collections action against an individual fiduciary. Moreover, in instances where a court-appointed fiduciary already has a bond in place, the bond typically would be payable to the state where the court is located, so VA could not make a direct claim against that bond. If the state-court bond were enough to cover the misused VA benefits, the state would be able to make a claim against the bond to make the beneficiary whole. Thus, at least in some cases, a state-court bond would provide adequate protection for the beneficiary. We note, however, that, in the event that VA reissues benefits and the beneficiary later receives funds recovered from the state-court bond, it is not apparent that VA would have any basis to recoup the excess funds paid to the beneficiary, even though it would amount to double recovery on the part of the beneficiary. A potential problem with VA's practice of requiring multiple bonds is that if a surety company already paid out on a misused-benefits claim under a state-court bond, another surety company would not pay out on the VA bond for the same misconduct. That would therefore defeat the purpose of requiring a second bond made payable to the Secretary. If the purpose of the second bond is to ensure that the beneficiary is made whole in the event of misuse, it does not make sense to burden the beneficiary with paying for a second bond where there already is adequate protection in place. As a result, VA proposes to amend § 13.230 of its part 13 regulations as described below.

13.230 Protection of Beneficiary Funds

VA proposes to amend 38 CFR 13.230 to exempt a VA-appointed fiduciary who is also serving as a court-appointed fiduciary with a bond sufficient to protect both VA and non-VA funds from posting multiple bonds and to exempt a VA-appointed fiduciary that is also a State agency with existing, State-mandated liability insurance or a blanket bond from having to obtain an additional bond payable to the Secretary of Veterans Affairs. The proposed amendment is within VA's general rulemaking authority under 38 U.S.C. 501(a) and implements VA's authority under 38 U.S.C. 6107. The proposed amendment would eliminate duplicative fees from being charged against a VA beneficiary's funds for an additional, unnecessary bond. Additionally, VA beneficiaries who are victims of misuse of their benefits by their VA fiduciaries would not experience undue delay in the reissuance of their misused benefits. Further, the bond requirement in 38 U.S.C. 5507(a)(3) gives VA discretion to determine whether to require a bond.

Under current rules, 38 CFR 13.230, does not include an exception to the bond requirement for court-appointed fiduciaries. Further, § 13.230 specifically requires that any bond furnished by the fiduciary ''[c]ontain a statement that the bond is payable to the Secretary of Veterans Affairs.''

VA proposes to amend § 13.230 to add an exception for posting an additional bond for an individual serving as a court-appointed fiduciary, where a bond is in place under State law and court rules and is sufficient to protect both VA and non-VA funds and to add another exception for a VA-appointed fiduciary that is also a State agency with existing, State-mandated liability insurance or a blanket bond to not have to obtain an additional bond payable to the Secretary of Veterans Affairs. This amendment is authorized by VA's general rulemaking authority in 38 U.S.C. 501, and by the discretion conferred by 38 U.S.C. 5507(a)(3).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (at 44 U.S.C. 3507) requires that VA consider the impact of paperwork and other information collection burdens imposed on the public. Under 44 U.S.C. 3507(a), an agency may not collect or sponsor the collection of information, nor may it impose an information collection requirement unless it displays a currently valid OMB control number. *See also* 5 CFR 1320.8(b)(3)(vi).

The information collection requirement in § 13.230 is currently approved by OMB and has been assigned OMB control number 2900–0804. The proposed rule includes provisions involving a revised collection of information under the Paperwork Reduction Act of 1995 that will require approval by OMB. The proposed rule would not involve a substantive or material modification of the approved collection.

Title: Protection of beneficiary funds.

Type of Information Collection: Modification of a currently approved information collection.

OMB Number: 2900–0804.

Summary of collection of information: The amendment to the collection of information in proposed § 13.230(c)(1) would eliminate the requirement for a VA-appointed fiduciary who is also serving as a court-appointed fiduciary to post multiple bonds and would also eliminate the requirement for a VA-appointed fiduciary that is also a State agency with existing, State-mandated liability insurance or a blanket bond to obtain an additional bond payable to the Secretary of Veterans Affairs. The proposed amendment to § 13.230(c)(1) would decrease the estimated annual number of respondents and consequently reduce the estimated total annual reporting and recordkeeping burden.

The estimated annual burden for the revised collection of information would be determined as follows:

Description of need for information and proposed use of information: There would be no change in the need for information nor the proposed use of information collected for OMB-approved Control Number 2900–0804. The information is needed to facilitate VA's oversight regarding the funds under management protection

requirements prescribed in proposed § 13.230.

Description of likely respondents: Certain fiduciaries appointed by VA who manage VA benefit funds in excess of $25,000. As stated, the proposed rule would exempt a VA-appointed fiduciary who is also serving as a court-appointed fiduciary from posting multiple bonds and would also exempt a VA-appointed fiduciary that is also a State agency with existing, State-mandated liability insurance or a blanket bond from having to obtain an additional bond payable to the Secretary of Veterans Affairs. This change would reduce the number of respondents.

Estimated number of respondents per year: 9,634 annually.

Estimated frequency of responses per year: Once per year.

Estimated number of responses per year: 9,634 annually.

Estimated average burden per response: The estimated average burden per response for OMB-approved Control Number 2900–0804 has not changed and remains at 1 minute.

Estimated total annual reporting and recordkeeping burden: 161 hours.

Estimated total annual respondent burden cost: $4,358.

VA estimates that the proposed rule would reduce the number of respondents in 2021 by 366 (from 10,000 to 9,634); however, it would increase the current annual respondent burden costs from $4,008 to $4,358, resulting in an estimated information collection burden costs increase of $350 (161 burden hours × $27.07 per hour). The Bureau of Labor Statistics (BLS) gathers information on full-time wage and salary workers. According to the latest available BLS data, the mean hourly wage is $27.07 based on the BLS wage code—''00–0000 All Occupations.'' This information was taken from the following website: *https://www.bls.gov/oes/current/oes_nat.htm.*

Regulatory Flexibility Act

The Secretary certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This regulation has the potential to impact all 2,350 small entities within the North American Industry Classification System Code 524126 (casualty and bonding companies). There is a projected loss of revenue of $66,989 per firm which yields a 0.16% revenue loss to each entity. Based on this analysis, we conclude that this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number and title for this proposed rule are as follows: 64.104, Pension for Non-Service-Connected Disability for Veterans; 64.105, Pension to Veterans Surviving Spouses, and Children; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

List of Subjects in 38 CFR Part 13

Surety bonds, Trusts and trustees, and Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on September 24, 2021, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, VA proposes to amend 38 CFR part 13 as follows:

PART 13—FIDUCIARY ACTIVITIES

■ 1. The authority citation for part 13 continues to read as follows:

Authority: 38 U.S.C. 501, 5502, 5506–5510, 6101, 6106–6108, and as noted in specific sections.

Source: 83 FR 32738, July 13, 2018, unless otherwise noted.

■ 2. Revise § 13.230(c)(1) to read as follows:

§ 13.230 Protection of beneficiary funds.

* * * * *

(c) * * *

(1) The provisions of paragraphs (a) and (b) of this section do not apply to:

(i) A fiduciary that is a trust company or a bank with trust powers organized under the laws of the United States or a state;

(ii) A fiduciary who is the beneficiary's spouse;

(iii) A fiduciary in the Commonwealth of Puerto Rico, Guam, or another territory of the United States, or in the Republic of the Philippines, who has entered into a restricted withdrawal agreement in lieu of a surety bond;

(iv) A fiduciary that is also appointed by a court and has obtained a state-court bond, as referenced in 38 CFR 14.709, sufficient to cover both VA and non-VA funds; or

(v) A fiduciary that is also a State agency with existing, State-mandated liability insurance or a blanket bond sufficient to cover both VA and on-VA funds.

* * * * *

[FR Doc. 2021–21177 Filed 9–28–21; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2017–0583; EPA–R05–OAR–2019–0311; EPA–R05–OAR–2020–0501; FRL–9056–01–R5]

Air Plan Approval; Illinois; Infrastructure SIP Requirements for the 2012 $PM_{2.5}$ and 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve elements of a State Implementation Plan (SIP) revision submitted by the State of Illinois regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 annual fine particulate matter ($PM_{2.5}$) and 2015 ozone National Ambient Air Quality Standards (NAAQS). Additionally, EPA is proposing to approve the infrastructure requirements related to Prevention of Significant Deterioration (PSD) for previous NAAQS. The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA.

DATES: Comments must be received on or before October 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2017–0583 (for $PM_{2.5}$), EPA–R05–OAR–2019–0311 (for ozone), or EPA–R05–OAR–2020–0501 (for PSD) at *https://www.regulations.gov* or via email to *arra.sarah@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Olivia Davidson, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0266, *davidson.olivia@epa.gov.* The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

SUPPLEMENTARY INFORMATION: In the Rules and Regulations section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives such comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: September 22, 2021.

Cheryl Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2021–21026 Filed 9–28–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2021–0253; FRL–8506–01–OAR]

RIN 2060–AV29

Protection of Stratospheric Ozone: Standards Related to the Manufacture of Class II Ozone-Depleting Substances for Feedstock; Notice of Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency is proposing to require the control, capture, and/or destruction of a hydrofluorocarbon that would otherwise be emitted from manufacture of hydrochlorofluorocarbons. In this proposed rule, EPA is proposing to require companies to control, capture, and destroy HFC-23 byproduct generated at plants that manufacture class II ozone-depleting substances regulated under current Clean Air Act regulations, such as HCFC-22. HFC-23 is a very potent greenhouse gas that is generated as a byproduct during the manufacture of certain class II ozone-depleting substances, including HCFC-22. Under the Clean Air Act and the implementing regulations, the production and consumption of class II ozone-depleting substances, including HCFC-22, are restricted with limited exceptions. One such exception is production for use in transformation, or as a feedstock, which is allowed indefinitely. The Agency is proposing to limit emissions of HFC-23 from plants manufacturing HCFCs. The HFC-23 must be captured and employed for a commercial use or destroyed using a technology approved by the Environmental Protection Agency, thereby ensuring it is not directly emitted.

DATES: Comments on this notice of proposed rulemaking must be received on or before November 15, 2021. Any party requesting a public hearing must notify the contact listed below under **FOR FURTHER INFORMATION CONTACT** by 5 p.m. Eastern Daylight Time on October 4, 2021. If requested, the Environmental Protection Agency (EPA) will hold a virtual public hearing on or before October 14, 2021. The date, time, and other relevant information for the virtual public hearing will be available at *https://www.epa.gov/ozone-layer-protection.*

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2021–0253, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery or Courier (by scheduled appointment only):* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday–Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov,* including any personal information provided. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

You may find the following suggestions helpful for preparing your comments: direct your comments to specific sections of this proposed

rulemaking and note where your comments may apply to future separate actions where possible; explain your views as clearly as possible; describe any assumptions that you used; provide any technical information or data you used that support your views; provide specific examples to illustrate your concerns; offer alternatives; and, make sure to submit your comments by the comment period deadline. Please provide any published studies or raw data supporting your position. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*e.g.,* on the web, cloud, or other file sharing system).

EPA recognizes that given the nature of this proposed rulemaking, potentially affected entities may wish to submit Confidential Business Information (CBI). CBI should not be submitted through *https://www.regulations.gov.* For submission of confidential comments or data, please work with the person listed in the **FOR FURTHER INFORMATION CONTACT** section if submitting a comment containing CBI. For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kirsten Cappel, U.S. Environmental Protection Agency, Stratospheric Protection Division, telephone number: 202–343–9556; or email address: *cappel.kirsten@epa.gov.* You may also visit our website at *https://www.epa.gov/ozone-layer-protection* for further information.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. Acronyms that are used in this rulemaking that may be helpful include:

AIM Act—American Innovation and Manufacturing Act
CAA—Clean Air Act
CBI—Confidential Business Information
CO_2—Carbon Dioxide
DRE—Destruction and Removal Efficiency
EPA—Environmental Protection Agency
FR—Federal Register
GHG—Greenhouse Gas
GHGRP—Greenhouse Gas Reporting Program
GWP—Global Warming Potential
HCFC—Hydrochlorofluorocarbon
HFC—Hydrofluorocarbon
IPCC—Intergovernmental Panel on Climate Change
$MMTCO_2$ eq—Million metric tons carbon dioxide equivalent
Montreal Protocol—Montreal Protocol on Substances that Deplete the Ozone Layer
ODS—Ozone-depleting substance
Parties to the Montreal Protocol or Party—Nations and regional economic integration organizations that have consented to be bound by the Montreal Protocol on Substances that Deplete the Ozone Layer

I. General Information

A. Does this proposed action apply to me?

You may be potentially affected by this action if you manufacture class II ozone-depleting substances (ODS) listed at 40 CFR part 82, subpart A, Appendix B, and hydrofluorocarbon-23 (HFC-23) is also generated as a byproduct at your plant. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. What action is the Agency proposing?

The Environmental Protection Agency (EPA) is proposing to require the control, capture, and/or destruction of byproduct HFC-23 that would otherwise be emitted from plants that manufacture class II ODS (*i.e.,* hydrochlorofluorocarbons (HCFCs)), including HCFC-22. Under the Clean Air Act (CAA) and EPA's regulations at 40 CFR part 82, controls are in place that restrict the production and consumption of HCFCs to implement the phaseout of these chemicals. There are limited exceptions to these restrictions for the manufacture of HCFCs that are not considered to be production under the CAA. One of the exceptions allows manufacture of HCFCs for use in a process in which the HCFC is used and entirely consumed, except for trace quantities, in the manufacture of other chemicals. The process is known as transformation and the controlled substances used and consumed are called feedstocks. Under this proposed action, any plant that manufactures HCFCs for transformation would need to control, capture, and/or destroy HFC-23 byproduct generated. More specifically, EPA is proposing that no later than October 1, 2022, as compared to the amount of HCFCs intentionally manufactured on a facility line, no more than 0.1 percent of HFC-23 generated on the line may be emitted. Rather, such HFC-23 byproduct must be captured and employed for a commercial purpose or destroyed using a technology approved by EPA.

This proposed rule is narrow in scope and is expected only to affect those plants that continue to manufacture HCFCs under an exception to the HCFC phaseout under the CAA and its implementing regulations. Based on data from EPA's Greenhouse Gas Reporting Program (GHGRP), we are aware of two plants that would fall under the proposed requirements. These two plants report their emissions under subpart O of the GHGRP (*HCFC-22 Production and HFC-23 Destruction*), which requires owners or operators of facilities that contain HCFC-22 production or HFC-23 destruction processes to report their emissions from those processes. Plant-specific emissions from these processes are then published in EPA's Facility Level Information on GreenHouse gases Tool (FLIGHT). Interested readers can review the data concerning HFC-23 reported to EPA for over a decade. Other than the two plants included in the GHGRP data, EPA is not aware of any other class II ODS production plants in the United States that generate emissions of HFC-23.[1] EPA is soliciting comment on whether there are any other plants manufacturing class II ODS that have emissions of HFC-23. EPA is also aware that there are plants that generate HFC-23 emissions during production of HFCs and directs interested readers to ''Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program under the American Innovation and Manufacturing Act'' (86 FR 27150, May 19, 2021), the ''Proposed HFC Allocation Rule,'' to learn more about EPA's proposal to implement a similar standard for emissions of HFC-23 at those plants.

EPA is proposing a compliance date of October 1, 2022. EPA recognizes that individual circumstances could arise that make it impossible for an individual plant to install necessary controls by October 1, 2022, and therefore is proposing a process under which companies could seek an extension of the compliance date.

C. What is the Agency's authority for this proposed action?

Several sections of the CAA provide authority for this proposed action.[2] Section 603 provides authority to establish monitoring and reporting requirements for ODS, and section 605

[1] See, *e.g.,* ''Fluorinated Greenhouse Gas Emissions and Supplies Reported to the GHGRP.'' *Epa.gov,* Environmental Protection Agency, 24 Feb. 2021, *https://www.epa.gov/ghgreporting/fluorinated-greenhouse-gas-emissions-and-supplies-reported-ghgrp#production.*

[2] The Clean Air Act provisions addressing stratospheric ozone protection are codified at 42 U.S.C. 7671–7671q.

provides authority to phase out the production and consumption of class II substances, to restrict the use of class II ODS, and to promulgate regulations associated with the production of class II ODS. EPA's regulations implementing the production and consumption controls for class II substances, including provisions implementing exceptions to those controls, can be found at 40 CFR part 82, subpart A.

To the extent that this rulemaking involves recordkeeping and reporting requirements, EPA also relies on its authority under section 114 of the CAA, which authorizes the EPA Administrator to require recordkeeping and reporting in carrying out any provision of the CAA (with certain exceptions that do not apply here). Additional authority for electronic reporting comes from the Government Paperwork Elimination Act (44 U.S.C. 3504), which provides ''(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and (2) for the use and acceptance of electronic signatures, when practicable.''

II. Background on This Action

A. Class I and Class II ODS Phaseout

To comply with the United States' obligations under the *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol) and requirements under Title VI of the CAA, EPA has been implementing a system of production and consumption controls for decades to facilitate the orderly phaseout of class I and class II ODS.[3] Under this system, EPA allocates allowances for the production and consumption of these substances, gradually reducing the number of allowances allocated over time. Allocation of production and consumption allowances for most class I substances (*e.g.,* chlorofluorocarbons, methyl chloroform, carbon tetrachloride, and halons) ended by 1996, and in 2005 for methyl bromide. EPA is implementing the phaseout of class II ODS on a chemical-by-chemical basis and had stopped allocating production and consumption allowances for most HCFCs by 2020. EPA allocated the few remaining production and consumption allowances for HCFC-123 and HCFC-124 in a 2020 rulemaking (85 FR 15258). Under that rule, production and consumption allowances for class II substances are reduced to zero by 2030 (§ 82.16). Production and import of HCFCs that are categorized as class II ODS without the appropriate allowances is generally prohibited unless an exception applies (§ 82.15(a) and (b)). The Montreal Protocol, the CAA, and EPA's implementing regulations also limit the permissible uses of HCFCs, with certain exceptions. Additional information on the class II phaseout can be found in EPA's prior rulemakings in this area (see, *e.g.,* 68 FR 2819, 79 FR 64254, and 85 FR 15258).

As noted previously, there are limited exceptions to these production controls under the CAA and EPA's implementing regulations (§ 82.15(a)). One exception allowed indefinitely under the CAA is manufacture for use in a process resulting in the HCFC being transformed. Consistent with section 601(11) of the CAA, the definition of ''production'' in 40 CFR 82.3 excludes the ''manufacture of a controlled substance that is subsequently transformed.'' As defined in 40 CFR 82.3, ''transform'' means to ''use and entirely consume (except for trace quantities) a controlled substance in the manufacture of other chemicals for commercial purposes.''

B. The American Innovation and Manufacturing Act

HFC-23 is a very potent GHG with a 100-year global warming potential (GWP) of 14,800[4] that is generated as a byproduct during the manufacture of certain chemicals, including HCFC-22. In a Technical Support Document for EPA's GHGRP, EPA detailed the process by which HFC-23 is generated as a byproduct during the manufacture of HCFC-22:

> HCFC-22 is produced by the reaction of chloroform ($CHCl_3$) and hydrogen fluoride (HF) in the presence of a catalyst, $SbCl_5$. The reaction of the catalyst and HF produces $SbCl_xF_y$, (where x + y = 5), which reacts with chlorinated hydrocarbons to replace chlorine atoms with fluorine. The HF and chloroform are introduced by submerged piping into a continuous-flow reactor that contains the catalyst in a hydrocarbon mixture of chloroform and partially fluorinated intermediates. The vapors leaving the reactor contain HCFC-21 ($CHCl_2F$), HCFC-22 ($CHClF_2$), HFC-23 (CHF_3), HCl, chloroform, and HF. The under-fluorinated intermediates (HCFC-21) and chloroform are then condensed and returned to the reactor, along with residual catalyst, to undergo further fluorination. The final vapors leaving the condenser are primarily HCFC-22, HFC-23, HCl and residual HF. The HCl is recovered as a useful byproduct, and the HF is removed. Once separated from the HCFC-22, the HFC-23 may be vented to the atmosphere as an unwanted by-product, captured for use in a limited number of applications, or destroyed.[5]

Historically, HFC-23 that has not been controlled or captured has been vented to the atmosphere. EPA is also aware of limited instances where HFC-23 is captured, purified, and used for commercial purposes, such as fire suppression, very low temperature refrigeration, and semiconductor manufacturing.

HFC-23 is a regulated substance under the American Innovation and Manufacturing Act of 2020 (AIM Act) enacted December 27, 2020, as section 103 in Division S, Innovation for the Environment, of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260). EPA has recently published a proposed rule under AIM Act authority, the Proposed HFC Allocation Rule (86 FR 27150, May 19, 2021), that has several interrelated proposed approaches linked to HFC-23 emissions. Under the primary proposed approach, all creation of HFC-23, whether intentional or unintentional, beyond insignificant quantities under certain conditions, would be ''production'' covered by AIM Act regulations. That proposal would require that HFC-23 be captured and controlled to a specific standard and then the HFC-23 could be refined for sale, which would require expenditure of AIM Act allowances, or the HFC-23 would need to be destroyed.[6] In the alternative, EPA is proposing to require that, in order to be eligible for a production allowance under the AIM Act rules, companies must control, capture, and destroy HFC-23 emissions from plants producing HFCs listed as regulated substances in the AIM Act. Under both proposals, EPA is proposing that, no later than October 1, 2022, as compared to the amount of chemical intentionally produced on a facility line, no more than 0.1 percent of HFC-23 generated as a byproduct on the line may be emitted. EPA also proposed a process under which companies could seek an

[3] The current list of substances that are categorized as class I substances can be found at 40 CFR part 82, subpart A, Appendix A, and as class II substances at 40 CFR part 82, subpart A, Appendix B. The class II substances are all HCFCs.

[4] Errata to Table 2.14 of the Intergovernmental Panel on Climate Change's (IPCC) Fourth Assessment Report.

[5] Technical Support Document for Emissions of HFC-23 from Production of HCFC-22: Proposed Rule for Mandatory Reporting of Greenhouse Gases, February 6, 2009, available at: *https://www.epa.gov/sites/production/files/2015-02/documents/subparto-tsd.pdf.*

[6] If that proposed approach under the AIM Act were to be finalized, all generation of HFC-23 would be regulated, including HFC-23 generated as a byproduct during production of HCFCs for feedstock use. Under such a scenario, EPA anticipates that it would not finalize this proposal, but is soliciting comments on whether this CAA-specific rulemaking would still be beneficial.

extension of the compliance date in certain circumstances. Accordingly, the timeline proposed in the Proposed HFC Allocation Rule matches the timeline proposed in this rulemaking, such that facilities would have no compliance obligations until October 1, 2022, or later if a compliance date extension was granted, to allow facilities necessary time to install and calibrate equipment. The HFC-23 must be destroyed using a technology approved in the context of the AIM Act regulations (which are also proposed in the same notice).

C. Emission Reduction Commitments

Studies indicate that HFC-23 emission trends from HCFC-22 manufacturing largely depend on the magnitude of HCFC-22 manufacturing and the effectiveness of HFC-23 destruction associated with that manufacture of HCFC-22.[7] [8] [9] HFC-23 has a substantially longer atmospheric lifetime and higher GWP than all other HFCs at 14,800. In 2015, EPA estimated that global controls on byproduct HFC-23 emissions from HCFC-22 manufacture would result in cumulative HFC-23 byproduct emission reductions of 12,600 $MMTCO_2$ eq through 2050.[10]

On September 16, 2014, and October 15, 2015, entities in the private sector announced commitments to reduce emissions of HFCs.[11] Several of those commitments included reducing HFC-23 byproduct emissions. For example, one commitment from 2015 states, in part:

''Chemours today agreed to control and, to the extent feasible, eliminate by-product emissions of HFC-23 at all its fluorochemical production facilities worldwide. Furthermore, Chemours today agreed to use in the U.S. only feedstock HCFC-22 from producers that control and, to the extent feasible, eliminate by-product emissions of HFC-23 at their production facilities in North America.''

And a second 2015 pledge states, in part:

''Daikin Industries Ltd. today announced its commitment to strictly control and, to the extent feasible, eliminate by-product emissions of HFC-23 at its fluorochemical production facilities worldwide. Daikin's plant in Decatur, Alabama, was the first plant in the U.S. that committed to the destruction of HFC-23 when it started operations in 1994.''

These commitments demonstrate longstanding concerns over and efforts to limit HFC-23 byproduct emissions. Further, in a 2021 news release, Chemours announced a project to significantly reduce emissions at their Louisville, Kentucky, manufacturing site. As stated in the news release, the project includes the design, custom-build, and installation of proprietary technology to capture at least 99 percent of HFC-23 process emissions from the site. The news release is available in the docket to this rule (EPA–HQ–OAR–2021–0253).

III. What is EPA proposing in this action?

A. What is EPA proposing to require for manufacturers of class II ODS?

In this action, EPA is proposing plants that manufacture HCFCs must control, capture, and destroy HFC-23 byproduct emissions. More specifically, EPA is proposing that, no later than October 1, 2022, as compared to the amount of chemical intentionally manufactured on a facility line over a certain time period, no more than 0.1 percent of HFC-23 generated on the line may be emitted during that same time period. After such point, emissions of HFC-23 byproduct that exceed the 0.1 percent would be treated as violations of an applicable emissions limitation in violation of federal law and subject to appropriate enforcement action. The proposed 0.1 percent allowable emissions standard is mass based, with the mass of the intentionally produced substance as the comparison point. In other words, if a line is intentionally producing 1,000 pounds of HCFC-22 over a certain time period, only one pound of HFC-23 could be emitted over that same time period. EPA proposes that any captured HFC-23 must either be refined and employed for commercial purposes, in accordance with any other governing regulatory requirements, or destroyed.

Given that the focus of this rulemaking is to minimize HFC-23 byproduct emissions, it is reasonable to require that if the HFC-23 is not being captured and employed for a commercial purpose, in which case it is not directly emitted from the HCFC manufacturing facility, HFC-23 must be destroyed using a technology that has been demonstrated to be highly effective in destroying HFC-23. EPA is proposing that HFC-23 must be destroyed using a technology approved by EPA. HFC-23 is a regulated substance under the newly enacted AIM Act. EPA has recently published the Proposed HFC Allocation Rule (86 FR 27150, May 19, 2021), which includes a proposal to approve specific technologies as permissible for the destruction of HFC-23. Because HFC-23 is a regulated substance under the AIM Act, it seems most appropriate to list approved technologies for the destruction of HFC-23 through the Proposed HFC Allocation Rule. Therefore, EPA is not separately proposing a list of technologies through this rulemaking. The list of technologies proposed for approval through the Proposed HFC Allocation Rule is as follows: (1) Gaseous/fume oxidation; (2) Liquid injection incineration; (3) Reactor cracking; (4) Rotary kiln incineration; (5) Argon plasma arc; (6) Nitrogen plasma arc; (7) Chemical reaction with hydrogen and carbon dioxide; and (8) Superheated steam reactor. As stated in the preamble of the Proposed HFC Allocation Rule (86 FR 27183), these technologies are capable of destroying HFC-23 to a destruction and removal efficiency (DRE) of 99.99 percent.[12]

For additional information on these technologies, EPA's basis for approving them for destruction of HFC-23, and to participate in the public process concerning that Proposed HFC Allocation Rule, please see the earlier-cited proposed rule. EPA is soliciting comment on its proposed approach to require use of a technology listed as approved through the Proposed HFC Allocation Rule, and it is also soliciting comment in this rulemaking on whether the same set of destruction technologies should be separately listed and approved for HFC-23 destruction under

[7] Montzka, S.A., L. Kuijpers, M.O. Battle, M. Aydin, K.R. Verhulst, E.S. Saltzman, and D.W. Fahey. et al.: Recent increases in global HFC-23 emissions, Geophysical Research Letters, 37, L02808, doi:10.1029/2009GL041195, 2010.

[8] B.R. Miller, M. Rigby, L.J.M. Kuijpers, P.B. Krummel, et al.: HFC-23 (CHF_3) emission trend response to HCFC-22 ($CHClF_2$) production and recent HFC-23 emission abatement measures, Atmospheric Chemistry and Physics, 10, 7875–7890, 2010.

[9] World Meteorological Organization (WMO), Executive Summary: Scientific Assessment of Ozone Depletion: 2018, World Meteorological Organization, Global Ozone Research and Monitoring Project—Report No. 58, 67 pp., Geneva, Switzerland, 2018.

[10] Proposed amendment to the Montreal Protocol submitted by Canada, Mexico and the United States of America. *https://ozone.unep.org/system/files/documents/OEWG-36-3E.pdf.*

[11] *https://obamawhitehouse.archives.gov/the-press-office/2014/09/16/fact-sheet-obama-administration-partners-private-sector-new-commitments-* and *https://obamawhitehouse.archives.gov/the-press-office/2015/10/15/fact-sheet-obama-administration-and-private-sector-leaders-announce.*

[12] The preamble to the Proposed HFC Allocation Rule also states that many of the destruction technologies previously approved by EPA to destroy ODS have also been found capable of destroying HFCs to a minimum DRE of 99.99 percent, citing the 2018 TEAP Report, Volume 2: Decision XXIX/4 TEAP Task Force Report on Destruction Technologies for Controlled Substances. March 15, 2021. *https://ozone.unep.org/sites/default/files/2019-04/TEAP-DecXXIX4-TF-Report-April2018.pdf.* In addition, we note that these eight technologies are currently included in the list of destruction processes approved by EPA for class I and class II ODS, which can be found in the definition of ''destruction'' in 40 CFR 82.3.

this rulemaking for inclusion in the part 82 regulations.

As noted previously, the known plants affected by this rulemaking have made public commitments to control and, to the extent feasible, eliminate byproduct emissions of HFC-23. In recent discussions with EPA, affected companies described ongoing efforts to control, capture, and destroy HFC-23, including planned facility upgrades.[13] EPA is proposing regulations to establish permanent and federally enforceable requirements in addition to these voluntary commitments. EPA acknowledges that some plants may need to install and calibrate new equipment to meet the standard and therefore is proposing a compliance date of October 1, 2022, to allow these plants to complete these activities. Based on the actions EPA understands need to be undertaken, including building and installing customized equipment, October 1, 2022, is a reasonable date by which plants should be expected to comply with the requirements proposed in this rule, if finalized.

Moreover, EPA recognizes that individual circumstances could arise that make it impossible for an individual plant to install necessary controls by October 1, 2022. Therefore, EPA proposes that the Agency may grant a six-month deferral of this compliance deadline (with the possibility of an additional, one-time six month extension) for companies that can demonstrate to EPA that they have taken concrete steps to start to improve their HFC-23 control, capture, and destruction (such as purchase and installation of necessary equipment) at the relevant plants, are reporting under applicable sections of 40 CFR parts 82, 84,[14] and 98, and have clear plans to come into full compliance with the 0.1 percent HFC-23 limit by the deferred date. Alternatively, EPA proposes that the Agency may grant a one-time, one-year deferral of the October 1, 2022 deadline, with no possible extension. EPA is soliciting comment on whether a phased approach of two six-month deferrals would provide helpful oversight by EPA on the company's progress to ensure regulatory requirements take effect as soon as feasible, or whether a single one-time deferral is more appropriate in this instance. Under this proposal, companies would need to request such a deferral by August 1, 2022. EPA proposes to make a determination on an application within 30 days. EPA intends to publicly announce any compliance deferrals granted under this process.

EPA proposes that the destruction of captured HFC-23 is not required to occur at the same plant where the HFC-23 is generated. Destruction of HFC-23 may occur either at the plant where it is generated (on-site) or off-site at another plant. In instances where captured HFC-23 is destroyed off-site, EPA proposes that the transportation to and destruction at the off-site plant would be considered in calculating compliance with the 0.1 percent emissions standard.

Destruction of HFC-23 on-site at the plant where it is generated occurs very soon after it is generated. Accordingly, EPA proposes that if a company utilizes onsite destruction capability, HFC-23 must be destroyed within 30 days of its generation. Alternatively, where destruction occurs off-site, more time may be needed to allow for transportation. To ensure HFC-23 is destroyed in a reasonable amount of time and is not inadvertently emitted, EPA is proposing to require that off-site HFC-23 destruction occur within 90 days after it is generated. These timelines are achievable as a practical matter while being short enough to avoid potential malfeasance that could occur over an elongated time horizon and to minimize the potential of accidental releases. EPA welcomes comment on these timeframes and would consider longer time windows if necessary to destroy HFC-23.

The CAA in section 605(c) provides EPA with the authority to promulgate regulations relating to the phase out of production of class II substances. Given plants are allowed to continue to manufacture HCFCs indefinitely under certain exceptions to the general prohibition on their production, such as manufacture as a feedstock for transformation, it is reasonable to require them to control, capture, and/or destroy HFC-23 emissions associated with such manufacture. As noted previously, HFC-23 has a GWP of 14,800, meaning that emitting a single kilogram of HFC-23 has about the same effect on the global climate over 100 years as emitting 14,800 kilograms of CO_2. Elevated concentrations of greenhouse gases (GHGs), including HFC-23, have been warming the planet, leading to changes in the Earth's climate including changes in the frequency and intensity of heat waves, precipitation, and extreme weather events, rising seas, and retreating snow and ice. The changes taking place in the atmosphere as a result of the well-documented buildup of GHGs due to human activities are changing the climate at a pace and in a way that threatens human health, society, and the natural environment. Extensive additional information on climate change is available in numerous scientific assessments[15] and EPA documents, as well as in the technical and scientific information supporting them. Two of these documents are EPA's 2009 final rule document ''Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act'' (74 FR 66496, December 15, 2009) and EPA's 2016 Endangerment and Cause or Contribute Findings for greenhouse gas emissions from aircraft under section 231(a)(2)(A) of the Clean Air Act (81 FR 54422, September 14, 2016).[16]

As noted, EPA is aware of two plants that intentionally manufacture HCFCs that generate HFC-23 as a byproduct. Both of these plants manufacture HCFC-22 for transformation. The definition in 40 CFR 82.3 of transformation notes that chemicals used in transformation processes are used and entirely consumed, except for trace quantities. As noted previously, this is consistent with the exclusion of substances that are ''used and entirely consumed (except for trace quantities) in the manufacture of other chemicals'' from the definition of produce, produced, and production in section 601(11) of the CAA. It is reasonable to assume that, in excepting transformation processes from the definitions related to production and

[13] ''Facilities with HFC-23 Emissions'' is available in the docket (EPA–HQ–OAR–2021–0253).

[14] EPA has proposed initial implementing regulations for the recently enacted AIM Act, which would be codified at 40 CFR part 84. This includes proposed recordkeeping and reporting requirements. More details can be found in ''Phasedown of Hydrofluorocarbons: Establishing the Allowance Allocation and Trading Program under the American Innovation and Manufacturing Act'' (86 FR 27150, May 19, 2021). If the referenced recordkeeping and reporting requirements are finalized, EPA is proposing through this document that such recordkeeping and reporting requirements would need to be followed in order for a facility to be eligible for an extension.

[15] For example, the 2018 National Climate Assessment or the 2018 IPCC Special Report on 1.5 °C: USGCRP, 2018: Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, 1515 pp. doi: 10.7930/NCA4.2018 and IPCC, 2018: Global Warming of 1.5 °C. An IPCC Special Report on the impacts of global warming of 1.5 °C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty [Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield (eds.)].

[16] In describing these 2009 and 2016 Findings in this proposal, EPA is neither reopening nor revisiting them.

accordingly from the production controls under the ODS phaseout, including for HCFCs, Congress's expectation was that HCFCs manufactured under this exception would be used and entirely consumed in the subsequent transformation processes, thereby resulting in minimal environmental effects from the manufactured HCFCs. Accordingly, it is reasonable for EPA to place additional controls around the process used to manufacture HCFCs intended for transformation in order to minimize its environmental effects.

B. What is EPA proposing for recordkeeping and reporting requirements?

EPA is proposing reporting requirements and corresponding recordkeeping requirements for plants that manufacture class II ODS with HFC-23 byproduct generation. EPA is proposing a one-time report, to be submitted within 45 days after the effective date of the rule, containing the following: (i) Information on the capacity to manufacture the intended chemical(s) on the line(s) where HFC-23 byproduct is generated; (ii) a description of actions taken at the plant to control the generation and emissions of HFC-23; (iii) identification of approved destruction technology and its location intended for use for HFC-23 destruction; and (iv) a copy of the DRE report associated with the destruction technology. EPA is further proposing that any changes to the information provided in the one-time report be reflected in a revision submitted to EPA within 60 days of the change(s).

EPA is also proposing quarterly reporting, to be submitted 45 days after the end of the applicable reporting period,[17] for production line data on HFC-23: (i) Emissions; (ii) generated, whether captured or not; (iii) generated and captured for all uses; (iv) generated and captured for feedstock use in the United States; (v) generated and captured for destruction; (vi) used for feedstock without prior capture; and (vii) destroyed without prior capture. Quantities should be reported in kilograms consistent with the existing reporting requirements in 40 CFR 82.24 for class II controlled substances.

If captured HFC-23 byproduct is destroyed in a subsequent calendar year (*e.g.,* it is generated and captured December 15 and destroyed January 15 in the following year), EPA is further proposing to require the entity that generated the HFC-23 to report that the HFC-23 has been destroyed. The information must be submitted within 45 days after destruction occurs. In addition, where destruction of HFC-23 occurs at a different plant than where it is generated, EPA is proposing to require the entity that generated the HFC-23 to report that the HFC-23 has been destroyed within 90 days of being generated. The information must be submitted within 45 days after destruction occurs.

To ensure that reported values for HFC-23 generation, capture, transformation, and destruction are reliable, EPA is proposing to require entities to comply with certain monitoring and calculation provisions. Specifically, EPA is proposing to require entities to meet the same requirements in 40 CFR part 98, subpart L or subpart OO, depending on the quantity being reported. These provisions include validated methods for measuring concentrations of HFC-23 in process streams and the mass flow rates of those streams; accuracy, precision, and calibration requirements for instrumentation; and specific calculation methods for uncontrolled emissions and for quantities transformed and destroyed. EPA proposes to include these reporting requirements to ensure that reported data are accurate, precise, and comparable over time and across plants and companies.

Regarding annual plant-level information on HFC-23 generated and destroyed, these data are inputs into emission equations that are used under GHGRP subpart O to calculate and report emissions of HFC-23, and inputs into emission equations are considered ''emission data.'' Section 114(c) of the CAA provides that ''emission data'' shall be available to the public. EPA generally anticipates that these elements related to HFC-23 are emission data and thus will not be treated as confidential following their collection.

EPA is proposing to require records of reports submitted to EPA to be kept for five years.

III. Statutory and Executive Order Review

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

This action is an economically significant regulatory action that was submitted to the Office of Management and Budget (OMB) for review. Any changes made in response to OMB recommendations have been documented in the docket. EPA prepared an analysis of the potential costs and benefits associated with this action. This analysis, ''Draft Regulatory Impact Analysis for Protection of Stratospheric Ozone: Standards Related to the Manufacture of Class II Ozone-Depleting Substances for Feedstock'' is available in the docket.

B. Paperwork Reduction Act (PRA)

The information collection activities in this proposed rule have been submitted for approval to OMB under the PRA. The Information Collection Request (ICR) document that EPA prepared has been assigned EPA ICR number 1432.37. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

EPA is proposing both a one-time report and quarterly reporting to ensure compliance with the proposed limits related to HFC-23 byproduct emissions from the manufacture of class II controlled substances or HCFCs. Quarterly reporting is consistent with the existing reporting requirements in 40 CFR 82.24 for class II controlled substances. The ICR addresses the incremental changes to the existing reporting and recordkeeping programs that are approved under OMB control number 2060–0170.

Respondents/affected entities: Respondents and affected entities will be plants that manufacture HCFCs and generate HFC-23 as a byproduct.

Respondent's obligation to respond: Mandatory—sections 603(b) and 114 of the CAA.

Estimated number of respondents: 2.

Frequency of response: Quarterly, annually, and as needed.

Total estimated burden: 164 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: $20,157 (per year), includes $0 annualized capital or operation and maintenance costs.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates and any suggested methods for minimizing respondent burden to EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention:

[17] There are four quarters or reporting periods in the control period. As defined in 40 CFR 82.3, the control period is each twelve-month period from January 1 through December 31.

Desk Officer for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than October 29, 2021. EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities (SISNOSE) under the RFA. This action will not impose any requirements on small entities. If a rule may have a SISNOSE, the Agency would be required to take certain steps to ensure that the interests of small entities were represented in the rulemaking process. To determine whether the proposed changes would likely have a SISNOSE, EPA identified producers with HFC-23 emissions under EPA's GHGRP. The small business threshold is defined by the SBA as the number of employees in the company and varied between 100 and 1,500 employees. Because only two plants were identified as potentially affected by this action, and neither of those plants are owned by small businesses, it can be presumed that this action will have no SISNOSE.

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. The action imposes no enforceable duty on any state, local, or tribal governments.

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: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action. EPA periodically provides updates on air regulations to the National Tribal Air Association and will share information on this rulemaking through this and other fora.

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

This action is subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is an economically significant regulatory action as defined by Executive Order 12866, and EPA believes that the environmental health or safety risk addressed by this action has a disproportionate effect on children. Accordingly, EPA has evaluated the environmental health and welfare effects of climate change on children.

GHGs, including HFCs, contribute to climate change. The GHG emissions reductions from HFC-23 resulting from implementation of this rule will further improve children's health. The assessment literature cited in EPA's 2009 and 2016 Endangerment Findings concluded that certain populations and life stages, including children, the elderly, and the poor, are most vulnerable to climate-related health effects. The assessment literature since 2016 strengthens these conclusions by providing more detailed findings regarding these groups' vulnerabilities and the projected impacts they may experience. These assessments describe how children's unique physiological and developmental factors contribute to making them particularly vulnerable to climate change. Impacts to children are expected from heat waves, air pollution, infectious and waterborne illnesses, and mental health effects resulting from extreme weather events. In addition, children are among those especially susceptible to most allergic diseases, as well as health effects associated with heat waves, storms, and floods. Additional health concerns may arise in low-income households, especially those with children, if climate change reduces food availability and increases prices, leading to food insecurity within households.

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

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This action applies to the manufacture of certain regulated substances, none of which are used to supply or distribute energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

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

EPA believes that this action does not contribute to disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). As discussed in the Regulatory Impact Analysis, ''Draft Regulatory Impact Analysis for Protection of Stratospheric Ozone: Standards Related to the Manufacture of Class II Ozone-Depleting Substances for Feedstock,'' one of the plants potentially affected by this proposed rule is currently controlling their HFC-23 emissions on-site, and the other plant plans to install equipment that will capture HFC-23 process emissions. Based on this information and as discussed further in the Regulatory Impact Analysis, we do not anticipate any effects from the proposed rule on the manufacture of HCFC-22.

This rule, if finalized, will reduce emissions of a potent GHG that is generated as a byproduct from the manufacture of certain HCFCs. While there are no local effects associated with the release of HFC-23, reducing emissions of HFC-23 will contribute to reducing the effects of climate change in the longer term, including public health and welfare effects that may be unevenly distributed and particularly harmful to minority populations, low-income populations, and/or indigenous peoples.

List of Subjects in 40 CFR Part 82

Environmental protection, Air pollution control, Chemicals, Emissions, Reporting and recordkeeping requirements.

Michael S. Regan,
Administrator.

For the reasons set forth in the preamble, EPA proposes to amend 40 CFR part 82 as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

■ 2. Amend § 82.15 by adding paragraph (a)(3) to read as follows:

§ 82.15 Prohibitions for class II controlled substances.

(a) * * *

(3) Effective October 1, 2022, no person may manufacture class II controlled substances defined in § 82.3 at a plant where HFC-23 byproduct is generated unless no more than 0.1 percent of HFC-23 generated is emitted as compared to the amount of class II controlled substances intentionally manufactured on the facility line. Any captured HFC-23 must be employed for commercial use consistent with the requirements outlined in 40 CFR part 84 or destroyed using a technology approved by EPA for that purpose in § 84.29. Where destruction occurs on-site at the plant where HFC-23 is generated, HFC-23 must be destroyed within 30 days of its generation. Captured HFC-23 destroyed at a different plant than where it is generated must be destroyed within 90 days after its generation. In such instances, emissions during the transportation to and destruction at the different plant are included in the calculations of whether the manufacturer meets the 0.1 percent standard.

(i) *Request for extension.* A person may submit to the relevant Agency official a request for a six-month extension, with the possibility of one additional six-month extension of the October 1, 2022, compliance date. No entity may have a compliance date later than October 1, 2023.

(ii) *Timing of request.* The extension request must be submitted to EPA no later than August 1, 2022, for a first-time extension, or February 1, 2023, for a second extension.

(iii) *Content of request.* The extension request must contain the following information:

(A) Name of the plant submitting the request; contact information for a person at the plant; and the address of the plant.

(B) A description of the specific actions taken at the plant to improve HFC-23 control, capture, and destruction; the plans to meet the 0.1 percent HFC-23 limit including the expected date by which the equipment will be installed and operating; and verification that the plant has met all applicable reporting requirements under 40 CFR parts 82, 84, and 98.

(iv*) Review of request.* Starting on the first working day following receipt by the relevant Agency official of a complete request for extension, the official will initiate review of the information submitted and take action within 30 working days.

* * * * *

■ 3. Amend § 82.24 by adding paragraph (g) to read as follows:

§ 82.24 Recordkeeping and reporting requirements for class II controlled substances.

* * * * *

(g) *Manufacturers of class II controlled substances under § 82.15(a)(3).* Any person who manufactures class II controlled substances under § 82.15(a)(3) during a control period must comply with the following recordkeeping and reporting requirements:

(1) *Reporting.* Each manufacturer of a class II controlled substance under § 82.15(a)(3) must provide the Administrator with the following two reports as required in § 82.24(g)(1)(i) and (ii).

(i) Within 45 days of the effective date of the final rule, each manufacturer must provide the Administrator with a one-time report containing the information required in this paragraph (g)(1)(i). Any changes to information required in this paragraph (g)(1)(i) must be reflected in a revision to the report to be submitted to EPA within 60 days of the change(s).

(A) Information on the capacity to manufacture the intended chemical on the line(s) on which HFC-23 is generated.

(B) Description of actions taken at the plant to control the generation and emissions of HFC-23.

(C) Identification of approved destruction technology and its location intended for use for HFC-23 destruction.

(D) A copy of the destruction and removal efficiency report associated with the destruction technology.

(ii) For each quarter, each manufacturer must provide the Administrator with a report containing the information required in this paragraph (g)(1)(ii).

(A) Production line data for the quarter on HFC-23 (in kilograms) on: Emissions; generated; generated and captured; generated and captured for feedstock use in the United States; generated and captured for destruction; used for feedstock without prior capture; and destroyed without prior capture.

(iii) If captured HFC-23 is destroyed in a subsequent control period, within 45 days after destruction occurs, manufacturers must submit information to EPA indicating the HFC-23 has been destroyed.

(iv) If captured HFC-23 is destroyed at a different plant than where it is generated, within 45 days after destruction occurs, manufacturers must submit information to EPA indicating the HFC-23 has been destroyed. Such report must include the date on which the HFC-23 was generated and the date on which the HFC-23 was destroyed.

(v) In developing any required report, the owner/operator of a plant that manufacturers class II controlled substances that generates HFC-23 must abide by the following monitoring and quality assurance and control provisions:

(A) To calculate the quantities of HFC-23 generated and captured for any use, generated and captured for destruction, used for feedstock without prior capture, and destroyed without prior capture, plants shall comply with the monitoring methods and quality assurance and control requirements set forth at 40 CFR 98.414 of this title and the calculation methods set forth at § 98.413 of this title, except § 98.414(p) of this title shall not apply.

(B) To calculate the quantity of HFC-23 emitted, plants shall comply with the monitoring methods and quality assurance and control requirements set forth at § 98.124 of this title and the calculation methods set forth at § 98.123 of this title.

(2) *Recordkeeping.* Each manufacturer during a control period must maintain records of reports provided to the Administrator for five years.

[FR Doc. 2021–20746 Filed 9–28–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 12, 32, and 52

[FAR Case 2020–007; Docket No. FAR–2020–0007; Sequence No. 1]

RIN 9000–AO10

Federal Acquisition Regulation: Accelerated Payments Applicable to Contracts With Certain Small Business Concerns

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to

implement a section of the National Defense Authorization Act for Fiscal Year 2020 to provide for accelerated payments to small business contractors and subcontractors and a comparable statute applicable only to the Department of Defense.

DATES: Interested parties should submit written comments to the Regulatory Secretariat Division at the address shown below on or before November 29, 2021 to be considered in the formation of the final rule.

ADDRESSES: Submit comments in response to FAR Case 2020–007 to the Federal eRulemaking portal at *https://www.regulations.gov* by searching for ''FAR Case 2020–007''. Select the link ''Comment Now'' that corresponds with ''FAR Case 2020–007''. Follow the instructions provided on the ''Comment Now'' screen. Please include your name, company name (if any), and ''FAR Case 2020–007'' 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 ''FAR Case 2020–007'' 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. Zenaida Delgado, Procurement Analyst, at 202–969–7207 or by email at *zenaida.delgado@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 FAR Case 2020–007.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are proposing to revise the FAR to implement a policy that provides for accelerated payments to contractors that are small businesses and to small business subcontractors by accelerating payments to their prime contractors. This change implements section 873 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116–92). Section 873 amends 31 U.S.C. 3903(a). Specifically, section 873 requires agencies to establish an accelerated payment date for small business prime contractors, to the fullest extent permitted by law, with a goal of 15 days after receipt of a proper invoice, if a specific payment date is not established by contract. Section 873 also requires that, to the fullest extent permitted by law, the head of an agency establish an accelerated payment date for prime contractors that subcontract with small businesses, with a goal of 15 days after receipt of a proper invoice, if—

(1) A specific payment date is not established by contract; and

(2) The contractor agrees to make accelerated payments to the subcontractor without any further consideration from, or fees charged to, the subcontractor. The proposed rule implements both aspects of section 873.

The FAR currently addresses providing accelerated payments to small business subcontractors at FAR 32.009 and requires contracting officers to insert the clause at FAR 52.232–40, Providing Accelerated Payments to Small Business Subcontractors, in solicitations and contracts. FAR 52.232–40 requires prime contractors to provide accelerated payments to their small business subcontractors when the Government provides accelerated payments to the prime contractors.

In addition, this rule implements 10 U.S.C. 2307, which includes the same provisions regarding accelerated payments, applicable only to the Department of Defense.

II. Discussion and Analysis

The following summarizes the proposed changes to the FAR:

The policy at FAR 32.009–1 has been expanded to address accelerated payments to small business contractors. A goal of payment within 15 days after receipt of a proper invoice is added, and prime contractors are prohibited from requesting any further consideration from the subcontractor in exchange for the accelerated payments. Section 873 does not specify the number of days for the prime to make accelerated payments to the subcontractor; however, DoD, GSA, and NASA propose, as a matter of policy, that the prime contractor make payments to the small business subcontractor within 15 days of receiving the accelerated payment from the Government, after receipt of a proper invoice and all other required documentation from the small business subcontractor.

These requirements are also incorporated into the clause at FAR 52.232–40, Providing Accelerated Payments to Small Business Subcontractors. For applicability to contracts for the acquisition of commercial items, because this clause is now based on a statutory requirement, it is incorporated into FAR clause 52.212–5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items, rather than being separately prescribed at FAR 12.301(d).

There are other conforming changes at FAR 12.301, 32.903, 32.906, 52.213–4, and 52.244–6.

To further improve cash flow and access to the Federal marketplace, DoD, GSA, and NASA are considering additional regulatory actions to further broaden the reach of accelerated payments to small business subcontractors and welcome public comment on how this broadening might best be accomplished. This proposed rule flows down the requirement for accelerated payments from the prime contractor to small business subcontractors; the accelerated payment requirement does not flow down to other than small businesses, *i.e.,* large business subcontractors. As drafted, large business subcontractors in the supply chain are not required to receive accelerated payments, and therefore are not required to accelerate payments to their small business subcontractors. Should the rule be expanded to apply the accelerated payment requirement to large business subcontractors in order to reach lower tier small business subcontractors? In other words, should all businesses, large and small, be directed to accelerate payment to their subcontractors, all the way down the tiers? What are the benefits, burdens, and unintended consequences, if any, of this type of expansion?

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-The-Shelf (COTS) Items

This rule does not add any new solicitation provisions or clauses. This rule proposes to amend the following FAR clauses: 52.212–5, Contract Terms and Conditions Required To Implement Statutes or Executive Orders-Commercial Items; 52.213–4, Terms and Conditions-Simplified Acquisitions (Other Than Commercial Items); 52.232–40, Providing Accelerated Payments to Small Business Subcontractors; and 52.244–6, Subcontracts for Commercial Items.

The FAR rule makes the 10 U.S.C. 2307 and 31 U.S.C. 3903 statutory changes to a requirement already applicable to contracts at or below the SAT and to contracts for the acquisition of commercial items, including COTS items. The Federal Acquisition Regulatory Council (FAR Council) is

proposing, in accordance with 41 U.S.C. 1905, 41 U.S.C. 1906, and 41 U.S.C. 1907, to apply the rule to contracts at or below the SAT and acquisitions of commercial items, including acquisitions for COTS items. The FAR Council will consider public feedback before making a final determination on the scope of the final rule.

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

41 U.S.C. 1905 governs the applicability of laws to acquisitions at or below the SAT. Section 1905 generally limits the applicability of new laws when agencies are making acquisitions at or below the SAT, but provides that such acquisitions will not be exempt from a provision of law under certain circumstances, including when the FAR Council makes a written determination and finding that it would not be in the best interest of the Federal Government to exempt contracts and subcontracts in amounts not greater than the SAT from the provision of law.

The FAR Council intends to make a determination to apply this statute to acquisitions at or below the SAT. These accelerated payments provide benefits to contractors that are small businesses, to contractors that subcontract with small businesses, and to small business subcontractors by accelerating payments to their prime contractors, without adding any reporting or recordkeeping requirements. Approximately 96 percent of Federal contracts are in amounts at or below the SAT. An exception for contracts and subcontracts at or below the SAT would exclude contracts and subcontracts intended to be covered by the law, thereby undermining the overarching public policy purpose of the law.

B. Applicability to Contracts for the Acquisition of Commercial Items, Including Commercially Available Off-The-Shelf (COTS) Items

41 U.S.C. 1906 governs the applicability of laws to contracts for the acquisition of commercial items and is intended to limit the applicability of laws to contracts for the acquisition of commercial items. Section 1906 provides that if the FAR Council makes a written determination that it is not in the best interest of the Federal Government to exempt commercial item contracts, the provision of law will apply to contracts for the acquisition of commercial items.

41 U.S.C. 1907 states that acquisitions of COTS items will be exempt from certain provisions of law unless the Administrator for Federal Procurement Policy makes a written determination and finds that it would not be in the best interest of the Federal Government to exempt contracts for the procurement of COTS items.

The FAR Council intends to make a determination to apply this statute to acquisitions for commercial items. The Administrator for Federal Procurement Policy intends to make a determination to apply this statute to acquisitions for COTS items. These accelerated payments provide benefits to contractors that are small businesses, to contractors that subcontract with small businesses, and to small business subcontractors by accelerating payments to their prime contractors, without adding any reporting or recordkeeping requirements. Over 50 percent of Federal contracts are awarded using commercial item procedures. An exception for commercial items, including COTS items, contracts and subcontracts would exclude contracts and subcontracts intended to be covered by the law, thereby undermining the overarching public policy purpose of the law.

IV. 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. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD, GSA, and NASA will send the rule and the ''Submission of Federal Rules Under the Congressional Review Act'' form to each House of the Congress and to the Comptroller General of the United States. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not anticipated to be a major rule under 5 U.S.C. 804.

VI. Regulatory Flexibility Act

DoD, GSA, and NASA do not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612, because the rule is not implementing any requirements with which small entities must comply. However, an Initial Regulatory Flexibility Analysis (IRFA) has been performed and is summarized as follows:

DoD, GSA, and NASA are proposing to amend the FAR to provide for accelerated payments to contractors that are small businesses and to small business subcontractors by accelerating payments to their prime contractors. Specifically, section 873 of the NDAA for FY 2020 requires agencies, to the fullest extent permitted by law, to establish an accelerated payment date for small business contractors, with a goal of 15 days after receipt of a proper invoice, if a specific payment date is not established by contract. For contractors that subcontract with small businesses, section 873 requires the FAR, to the fullest extent permitted by law, to establish an accelerated payment date, with a goal of 15 days after receipt of a proper invoice, if—

(a) A specific payment date is not established by contract; and

(b) The contractor agrees to make accelerated payments to the subcontractor without any further consideration from, or fees charged to, the subcontractor.

The objective is to implement section 873 of the NDAA for FY 2020 (Pub. L. 116–92), which amends 31 U.S.C. 3903(a). The rule also implements 10 U.S.C. 2307, which applies the same requirements to the Department of Defense. The legal basis for this rule is 40 U.S.C. 121(c), 10 U.S.C. chapter 137, and 51 U.S.C. 20113.

This rule applies to small businesses that are prime contractors and to small businesses that are subcontractors on Federal prime contracts. Based on data obtained from the Federal Procurement Data System, 129,450 unique entities (including 84,468 small businesses) were awarded contracts for FY 2019. DoD, GSA, and NASA do not have data as to how many subcontracts are awarded to small businesses. Regarding the impact of the prohibition on fees or other consideration in return for accelerated payments, it is not possible to estimate how many of these small business subcontractors may have been required to provide consideration or pay fees to the prime contractor in order to receive accelerated payments.

The proposed rule does not include additional reporting or record keeping requirements. The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no available alternatives to the proposed rule to accomplish the desired objective of the statute.

Although this proposed rule may have a positive impact on small businesses, the rule is not expected to have a significant economic impact on a substantial number of small entities.

The Regulatory Secretariat Division has submitted 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. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small 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 2020–007), in correspondence.

VII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

List of Subjects in 48 CFR Parts 12, 32, and 52

Government procurement.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 12, 32, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 12, 32, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

12.301 [Amended]

■ 2. Amend section 12.301 by removing paragraph (d)(15).

PART 32—CONTRACT FINANCING

■ 3. Revise sections 32.009 and 32.009–1 to read as follows:

32.009 Providing accelerated payments to small business contractors and to prime contractors that subcontract with a small business concern.

32.009–1 General.

(a) Pursuant to 31 U.S.C. 3903(a) and 10 U.S.C. 2307(a), agencies shall provide accelerated payments, to the fullest extent permitted by law, with a goal of 15 days after receipt of a proper invoice and all other required documentation, if a specific payment date is not established by contract, to—

(1) Small business contractors; and

(2) Prime contractors that subcontract with a small business concern, if the prime contractor agrees to make payments to the small business subcontractor within 15 days of receiving the accelerated payment from the Government, after receipt of a proper invoice and all other required documentation from the small business subcontractor, to the maximum extent practicable, without any further consideration from or fees charged to the subcontractor.

(b) This acceleration does not provide any new rights under the Prompt Payment Act and does not affect the application of the Prompt Payment Act late payment interest provisions.

(c) Agencies may use the Governmentwide commercial purchase card as a method of payment (see 32.1108) to facilitate accelerated payment, to earn refunds, and to reduce invoice processing costs.

32.903 [Amended]

■ 4. Amend section 32.903 by removing from paragraph (a)(5) ''5 CFR 1315.5'' and adding ''5 CFR 1315.5, but see 32.009–1(a)'' in its place.

32.906 [Amended]

■ 5. Amend section 32.906 by removing from paragraph (a)(2) ''are necessary (see 32.903(a)(5))'' and adding ''is necessary. See 32.903(a)(5), but see 32.009–1(a)'' in its place.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 6. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (a)(5) and (6) as paragraphs (a)(6) and (7); and adding a new paragraph (a)(5);

■ c. Redesignating paragraph (e)(1)(xxii) as paragraph (e)(1)(xxiii); and adding a new paragraph (e)(1)(xxii); and

■ d. In Alternate II—

■ i. Revising the date of the Alternate;

■ ii. Redesignating paragraph (e)(1)(ii)((U) as paragraph (e)(1)(ii)(V); and adding a new paragraph (e)(1)(ii)((U);

The revision and addition read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (DATE)

(a) * * *

(5) 52.232–40, Providing Accelerated Payments to Small Business Subcontractors (DATE) (31 U.S.C. 3903 and 10 U.S.C. 2307).

* * * * *

(e)(1) * * *

(xxii) 52.232–40, Providing Accelerated Payments to Small Business Subcontractors (DATE) (31 U.S.C. 3903 and 10 U.S.C. 2307). Flow down required in accordance with paragraph (c) of 52.232–40.

* * * * *

Alternate II (DATE). * * *

(e)(1) * * *

(ii) * * *

(U) 52.232–40, Providing Accelerated Payments to Small Business Subcontractors (DATE) (31 U.S.C. 3903 and 10 U.S.C. 2307). Flow down required in accordance with paragraph (c) of 52.232–40.

* * * * *

■ 7. Amend section 52.213–4 by—

■ a. Revising the date of the clause;

■ b. Redesignating paragraphs (a)(1)(viii) and (ix) as paragraphs (a)(1)(ix) and (x); and adding a new paragraph (a)(1)(viii);

■ c. Removing paragraph (a)(2)(vi);

■ d. Redesignating paragraphs (a)(2)(vii) through (ix) as paragraphs (a)(2)(vi) through (viii); and

■ e. Removing from the newly redesignated paragraph (a)(2)(vii) ''(JUL 2021)'' and adding ''(DATE)'' in its place.

The revision and addition read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (DATE)

(a) * * *

(1) * * *

(viii) 52.232–40, Providing Accelerated Payments to Small Business Subcontractors (DATE) (31 U.S.C. 3903 and 10 U.S.C. 2307).

* * * * *

■ 8. Amend section 52.232–40 by revising the date of the clause and paragraphs (a) and (c) to read as follows:

52.232–40 Providing Accelerated Payments to Small Business Subcontractors.

* * * * *

Providing Accelerated Payments to Small Business Subcontractors (DATE)

(a)(1) In accordance with 31 U.S.C. 3903 and 10 U.S.C. 2307, within 15 days after receipt of accelerated payments from the Government, the Contractor shall make accelerated payments to its small business subcontractors under this contract, to the maximum extent practicable and prior to when such payment is otherwise required under the applicable contract or subcontract, after receipt of a proper invoice and all other required documentation from the small business subcontractor, if a specific payment date is not established by contract.

(2) The Contractor agrees to make such payments to its small business subcontractors without any further consideration from or fees charged to the subcontractor.

* * * * *

(c) *Subcontracts.* Include the substance of this clause, including this paragraph (c), in all subcontracts with small business concerns, including subcontracts with small business concerns for the acquisition of commercial items.

* * * * *

■ 9. Amend section 52.244–6 by—

■ a. Revising the date of the clause; and

■ b. Removing from paragraph (c)(1)(xix) ''(DEC 2013)'' and adding ''(DATE)'' in its place.

The revision reads as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (DATE)

* * * * *

[FR Doc. 2021–20852 Filed 9–28–21; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225, 231, 242, and 252

[Docket DARS–2019–0039]

RIN 0750–AJ27

Defense Federal Acquisition Regulation Supplement: Treatment of Incurred Independent Research and Development Costs (DFARS Case 2017–D018)

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

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2017 that makes amendments regarding the treatment of independent research and development expenditures and requires the Defense Contract Audit Agency to provide an annual report to Congress on independent research and development and bid and proposal expenditures.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 29, 2021, to be considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2017–D018, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2017–D018.'' Select ''Comment'' and follow the instructions to submit a comment. Please include your name, company name (if any), and ''DFARS Case 2017–D018'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2017–D018 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal 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: Mr. David E. Johnson, telephone 571–372–6115.

SUPPLEMENTARY INFORMATION:

I. Background

Section 824 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328) amends 10 U.S.C. 2372 to require that regulations may not infringe on the independence of a contractor to choose which technologies to pursue in its independent research and development (IR&D) program if the chief executive officer (CEO) of the contractor determines that IR&D expenditures will advance the needs of DoD for future technology and advanced capability.

Section 824 amends 10 U.S.C. 2372 to remove the list that limits the allowability of IR&D costs to seven activities of potential interest to DoD. In lieu of the list of activities of potential interest to DoD, section 824 requires a CEO determination that IR&D expenses will advance the needs of DoD for future technology and advanced capability.

Section 824 also decouples IR&D and bid and proposal (B&P) costs by moving the language pertaining to B&P costs out of 10 U.S.C. 2372 and placing it in the new 10 U.S.C. 2372a. This change ensures that regulations pertaining to B&P costs are separated from regulations pertaining to IR&D costs.

Section 824 also amends 10 U.S.C. 2313a by adding a requirement for the Defense Contract Audit Agency to submit an annual report to Congress of all incurred IR&D and B&P costs of contractors in the prior Government fiscal year.

II. Discussion and Analysis

In accordance with 10 U.S.C. 2372(d), the rule adds language at DFARS 231.205–18(c)(iii)(A)(*1*) to require contractor CEOs to determine that IR&D expenditures will advance the needs of DoD for future technology and advanced capability. In addition, the rule adds a requirement at DFARS 231.205–18(iii)(c)(A)(*2*) for major contractors to include a statement in the submission to the Defense Technical Information Center (DTIC) that the CEO of the contractor has made the determination required by 10 U.S.C. 2372. This statement serves as evidence for DoD, when determining whether IR&D costs are allowable. Major contractors are already required to upload IR&D activities in DTIC in order to provide DoD with information on the progress of these activities; this rule simply adds a requirement for those major contractors to include a statement in the DTIC input that the determination required by 10 U.S.C. 2372 has been made as a means for DoD to know that those costs are allowable.

Since the list of seven activities of potential interest to DoD was deleted from 10 U.S.C. 2372, the requirement for the Defense Contract Management Agency (DCMA) administrative contracting officer (ACO) or corporate ACO (CACO) to compare the IR&D activities uploaded in DTIC to the list of seven IR&D activities of potential interest to DoD no longer exists. Therefore, DFARS 242.771–3(a) is modified to remove the ACO and CACO responsibilities for determining if an activity is of potential interest to DoD.

The rule also adds language to clarify that IR&D and B&P costs will be reported independently from other incurred indirect costs in a new paragraph at DFARS 231.205–18(c)(iv). This change corresponds to 10 U.S.C. 2372(a) and 10 U.S.C. 2372a(a), which require allowable IR&D and B&P costs to be reported independently.

The proposed rule decouples IR&D and B&P by stating ''IR&D and B&P'' instead of ''IR&D/B&P'' throughout the text based on the amendment to 10 U.S.C. 2372, which segregates IR&D and B&P costs. However, for the purposes of calculating the threshold that requires major contractors to submit IR&D activities and statements regarding the CEO determinations in DTIC, the rule does not change the calculation, which combines IR&D and B&P, to ensure the definition of ''major contractor'' remains the same.

DFARS 242.771–3(c)(1) is modified in the proposed rule to change the content of the communication from DoD to contractors from the ''planned or expected DoD future needs'' to the ''planned or expected needs of DoD for future technology and advanced capability.'' In addition, the responsibilities of the Office of the Under Secretary of Defense for Research and Engineering are expanded to include providing on the DTIC website

communities of interest on DoD's future needs. An email address for additional information is also provided. This change ensures that timely and comprehensive information on DoD's planned or expected needs for future technology and advanced capability is being transmitted from DoD to contractors, as required by 10 U.S.C. 2372(c)(2)(A).

To support DCAA's compliance with 10 U.S.C. 2313a, the proposed rule adds a contract clause at DFARS 252.242–70XX, Independent Research and Development and Bid and Proposal Incurred Costs, which requires all contractors with noncommercial awards exceeding the simplified acquisition threshold to provide an incurred cost submission of IR&D and B&P costs for the prior Government fiscal year to a website for DCAA to access. The related clause prescription is at DFARS 242.771–4.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-The-Shelf Items

This rule proposes to create a new clause at DFARS 252.242–70XX, Independent Research and Development and Bid and Proposal Incurred Costs. However, this clause does not impact contracts at or below the simplified acquisition threshold or contracts for the acquisition of commercial items, including commercially available off-the-shelf items.

IV. Executive Orders 12866 and 13563

Executive Order (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. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

V. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not anticipated to be a major rule under 5 U.S.C. 804.

VI. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

DoD is proposing to amend the DFARS to implement section 824 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2017 (Pub. L. 114–328). Section 824 modifies 10 U.S.C. 2372 to require the chief executive officer (CEO) of the contractor to make a determination that independent research and development (IR&D) expenditures will advance the needs of the Department of Defense for future technology and advanced capability. Section 824 also amends 10 U.S.C. 2313a to require the Defense Contract Audit Agency (DCAA) to submit an annual report to Congress on incurred IR&D and bid and proposal (B&P) costs for all contractors in the prior Government fiscal year. The legal basis for the amendment to the DFARS is section 824 of the NDAA for FY 2017.

In accordance with 10 U.S.C. 2372(d), the proposed rule adds language applicable to contractors at DFARS 231.205–18(c)(iii)(A)(*1*) requiring the CEO of the contractor to determine that IR&D expenditures will advance the needs of DoD for future technology and advanced capability. The proposed rule also adds, at DFARS 231.205–18(iii)(A)(*2*), a requirement for major contractors to include a statement in the Defense Technical Information Center (DTIC) submission that the CEO of the contractor made the determination required by 10 U.S.C. 2372. To support DCAA's compliance with 10 U.S.C. 2313a, the proposed rule includes a contract clause that requires contractors with noncommercial awards exceeding the simplified acquisition threshold to provide an incurred cost submission of IR&D and B&P costs for the prior Government fiscal year to a website for DCAA to access.

The proposed rule will only apply to small entities that have incurred IR&D costs or B&P costs associated with noncommercial DoD awards exceeding the simplified acquisition threshold or small businesses that have an IR&D program and are considered to be a major contractor, which is defined as having annual expenditures of $1.1 million in combined IR&D and B&P expenditures.

Based on an internal DoD website, on average for FY 2017 through FY 2019, there were 69 other than small business major contractors that submitted IR&D activities to DTIC. DoD does not have a list of other than major contractors or small entities that have IR&D programs. As a result, the burden on the public for developing a statement of the CEO determination in DTIC is expected to be close to 69 contractors. DoD expects a minimal number of the contractors to be small entities.

DoD determined that for FY 2020, a total of 1,869 contractors submitted incurred cost proposals to the Government claiming IR&D or B&P costs. This number represents the estimated number of contractors that will be required under the new clause 252.242–70XX, Independent Research and Development and Bid and Proposal Incurred Costs, to annually report IR&D and B&P costs to the Defense Contract Audit Agency. The ratio of small entities to other than small entities is unknown. However, DoD expects the proposed rule will have minimal impact on small entities.

This proposed rule does include new reporting or recordkeeping requirements for small entities. The annual reporting burden is related to adding the statement that the CEO has made a determination to IR&D project submissions in DTIC and submitting IR&D and B&P incurred costs to a DCAA website. It is expected that, if applicable to a small entity, the CEO of the contractor and an attorney of the contractor would be required to support including a statement that the CEO made a determination with IR&D project submissions in DTIC and a financial analyst of the contractor would be required to support submitting IR&D and B&P incurred costs to a website. As stated previously, it is expected that a minimal number of small entities will be impacted by the major contractor requirement to upload to DTIC a statement that the CEO made a determination as there are currently no known small entities classified as major contractors. It is expected that fewer than 1,869 small businesses would be required to upload IR&D and B&P incurred costs to a DCAA website.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no known significant alternative approaches to the proposed rule that would meet the requirements of the applicable statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2017–D018), in correspondence.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The rule contains information collection requirements that require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. chapter 35). Accordingly, DoD plans to submit a request for approval of a new information collection requirement concerning DFARS Case 2017–D018, Treatment of Incurred Independent Research and Development Costs, to OMB.

A1. DFARS 231.205–18(c)(iii)(A)(2)(iii)

Based on the proposed revisions to DFARS 231.205–18(c)(iii)(A)*(2)(iii),* an upward adjustment is being made to the burden hours for reporting per response. Public reporting burden for this collection of information is estimated to average 1 hour per response for submission of the confirming statement into DTIC that the chief executive officer of the contractor has made a determination that the expenditures will advance the needs of DoD future technology and advanced capability. The annual reporting burden is estimated as follows:

Respondents: 69.

Responses per respondent: 90, approximately.

Total annual responses: 6,244.

Hours per response: 1.

Total annual burden hours: 6,244.

A2. DFARS 252.242–70XX, Independent Research and Development and Bid and Proposal Incurred Costs

Public reporting burden results from the collection of information regarding contractor submission of an annual report of IR&D and B&P costs incurred during performance of any DoD contract in the prior Government fiscal year. Reports are required no later than December 31 each year. Approximately 0.25 hour per response is expected for the contractor to submit incurred IR&D and B&P costs for the prior Government fiscal year to a website provided in the clause that DCAA can access. The annual reporting burden is estimated as follows:

Respondents: 1,869.

Responses per respondent: 1.

Total annual responses: 1,869.

Hours per response: 0.25.

Total response Burden Hours: 467.

B. Request for Comments Regarding Paperwork Burden

Written comments and recommendations on the proposed information collection, including suggestions for reducing this burden, should be sent to Ms. Susan Minson at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503, or email *Susan_M_Minson@omb.eop.gov,* with a copy to the Defense Acquisition Regulations System, Attn: David E. Johnson, OUSD(A&S)DPC/DARS, Room 3B938, 3060 Defense Pentagon, Washington, DC 20301–3060. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the DFARS, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Acquisition Regulations System, Attn: David E. Johnson, OUSD(A&S)DPC/DARS, Room 3B938, 3060 Defense Pentagon, Washington, DC 20301–3060, or email *osd.dfars@mail.mil.* Include DFARS Case 2017–D018 in the subject line of the message.

List of Subjects in 48 CFR Parts 225, 231, 242, and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225, 231, 242, and 252 are proposed to be amended as follows:

■ 1. The authority citation for parts 225, 231, 242, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

■ 2. Amend section 225.7303–2 by revising paragraphs (b) and (c) to read as follows:

225.7303–2 Cost of doing business with a foreign government or an international organization.

* * * * *

(b) Costs not allowable under FAR part 31 are not allowable in pricing FMS contracts, except as noted in paragraphs (c) and (e) of this section.

(c) The limitations for all contractors described in 231.205–18(c)(iii) and (iv) do not apply to FMS contracts, except as provided in 225.7303–5. The allowability of IR&D and B&P costs on contracts for FMS not wholly paid for from funds made available on a nonrepayable basis is limited to the contract's allocable share of the contractor's total IR&D and total B&P expenditures. In pricing contracts for such FMS—

(1) Use the best estimate of reasonable costs in forward pricing; and

(2) Use actual expenditures, to the extent that they are reasonable, in determining final cost.

* * * * *

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 3. Revise section 231.205–18 to read as follows:

231.205–18 Independent research and development and bid and proposal costs.

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

Covered contract means a DoD prime contract for an amount exceeding the simplified acquisition threshold, except for a fixed-price contract without cost incentives. The term also includes a subcontract for an amount exceeding the simplified acquisition threshold, except for a fixed-price subcontract without cost incentives under such a prime contract.

Covered segment means a product division of the contractor that allocated more than $1,100,000 in independent research and development (IR&D) and bid and proposal (B&P) costs to covered contracts during the preceding fiscal year. In the case of a contractor that has no product divisions, the term means that contractor as a whole. A product division of the contractor that allocated less than $1,100,000 in IR&D and B&P

costs to covered contracts during the preceding fiscal year is not subject to the limitations in paragraph (c) of this section.

Major contractor means any contractor whose covered segments allocated a total of more than $11,000,000 in IR&D and B&P costs to covered contracts during the preceding fiscal year. For purposes of calculating the dollar threshold amounts to determine whether a contractor meets the definition of ''major contractor,'' do not include contractor segments allocating less than $1,100,000 of IR&D and B&P costs to covered contracts during the preceding fiscal year.

(c) *Allowability.* (i) Departments/agencies shall not supplement this regulation in any way that limits IR&D and B&P cost allowability.

(ii) See 225.7303–2(c) for allowability provisions affecting foreign military sale contracts.

(iii)(A) For incurred IR&D costs to be allowable—

(*1*) The chief executive officer (CEO) of the contractor must have determined that the expenditures will advance the needs of DoD for future technology and advanced capability (10 U.S.C. 2372(d)) (see 242.771–3); and

(*2*) For major contractors only—

(*i*) The IR&D projects generating the IR&D costs must be reported to the Defense Technical Information Center (DTIC) using the DTIC's online input form and instructions at *https://defense innovationmarketplace.dtic.mil/industry-portal/;*

(*ii*) The DTIC inputs must be updated at least annually, no later than 3 months after the end of the contractor's fiscal year, and when the project is completed; and

(*iii*) For each IR&D project beginning on or after October 1, 2017, the DTIC input must include a statement that the CEO of the contractor determined that the expenditures will advance the needs of DoD for future technology and advanced capability.

(B) The amount of IR&D costs allowable under DoD contracts shall not exceed the lesser of—

(1) Such contracts' allocable share of total incurred IR&D costs; or

(2) The total amount of incurred IR&D costs that the CEO of the contractor has determined will advance the needs of DoD for future technology and advanced capability.

(C) Contractors not meeting the threshold of a major contractor are encouraged to use the DTIC online input form and instructions at *https://defense innovationmarketplace.dtic.mil/industry-portal/* to report IR&D projects in order to provide DoD with visibility into the technical content of the contractors' IR&D projects.

(iv) Incurred IR&D and B&P costs must be reported independently from each other and other incurred indirect costs.

PART 242—CONTRACT ADMINISTRATION

■ 4. Amend section 242.302 by revising paragraph (a)(9) to read as follows:

242.302 Contract administration functions.

(a) * * *

(9) For additional contract administration functions related to IR&D and B&P projects performed by major contractors, see 242.771–3(a).

* * * * *

■ 5. Revise sections 242.771–1, 242.771–2, and 242.771–3 to read as follows:

Sec.

* * * * *

242.771–1 Scope.
242.771–2 Policy.
242.771–3 Responsibilities.

* * * * *

242.771–1 Scope.

This section implements 10 U.S.C. 2372, Independent research and development costs: Allowable costs; 10 U.S.C. 2372a, Bid and proposal costs: Allowable costs; and 10 U.S.C. 2313a, Defense Contract Audit Agency: annual report.

242.771–2 Policy.

Defense contractors are encouraged to engage in independent research and development (IR&D) projects that will advance the needs of DoD for future technology and advanced capability (see 231.205–18(c)(iii)).

242.771–3 Responsibilities.

(a) The cognizant administrative contracting officer (ACO) or corporate ACO shall determine cost allowability of IR&D and B&P costs as set forth in 231.205–18 and FAR 31.205–18.

(b) The Defense Contract Audit Agency (DCAA) shall—

(1) For the DoD-wide B&P program, submit an annual report to the Principal Director, Defense Pricing and Contracting, Office of the Under Secretary of Defense for Acquisition and Sustainment, as required by 10 U.S.C. 2372a(c); the Defense Contract Management Agency or the military department responsible for performing contract administration functions is responsible for providing DCAA with statistical information, as necessary; and

(2) For IR&D and B&P costs incurred under any DoD contract in the previous Government fiscal year, submit an annual report to the congressional defense committees as required by 10 U.S.C. 2313a.

(c) The Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)), is responsible for establishing a regular method for communication—

(1)(i) From DoD to contractors, of timely and comprehensive information regarding planned or expected needs of DoD for future technology and advanced capability, by posting information on communities of interest and upcoming meetings on the Defense Technical Information Center (DTIC) website at *https://defenseinnovationmarketplace.dtic.mil/communities-of-interest;* and

(ii) From contractors to DoD, of brief technical descriptions of contractor IR&D projects; and

(2) By providing OUSD(R&E) contact information: *osd.pentagon.ousd-re.mbx.communications@mail.mil.*

■ 6. Add section 242.771–4 to subpart 242.7 to read as follows:

242.771–4 Contract clause.

Use the clause at 252.242–70XX, Independent Research and Development and Bid and Proposal Incurred Costs, in solicitations and contracts that exceed the simplified acquisition threshold.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Add section 252.242–70XX to read as follows:

252.242–70XX Independent Research and Development and Bid and Proposal Incurred Costs.

As prescribed in 242.771–4, use the following clause:

Independent Research and Development and Bid and Proposal Incurred Costs (DATE)

(a) In order for the Defense Contract Audit Agency to submit the annual report required by 10 U.S.C. 2313a, the Contractor shall—

(1) Report to *[website TBD]* a consolidated spreadsheet of all independent research and development (IR&D) and bid and proposal (B&P) costs incurred by the Contractor during performance of any DoD contract in the previous fiscal year, beginning October 1 through September 30; and

(2) Submit this report no later than December 31 of each year.

(b) IR&D and B&P incurred costs shall be reported separately and shall be reported by costs attributable to—

(1) The Department of Defense (non-foreign military sales);

(2) Foreign military sales; and

(3) Other.

(End of clause)

[FR Doc. 2021–20938 Filed 9–28–21; 8:45 am]

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

[Docket DARS–2021–0018]

RIN 0750–AL29

Defense Federal Acquisition Regulation Supplement: Modification of Small Purchase Threshold Exceptions (DFARS Case 2021–D010)

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

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement a section of the National Defense Authorization Act for Fiscal Year 2021, which reduces the dollar threshold at which an acquisition is excepted from certain source restrictions.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before November 29, 2021, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by DFARS Case 2021–D010, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Search for ''DFARS Case 2021–D010.'' Select ''Comment'' and follow the instructions to submit a comment. Please include your name, company name (if any), and ''DFARS Case 2021–D010'' on any attached documents.

○ *Email: osd.dfars@mail.mil.* Include DFARS Case 2021–D010 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal 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. Kimberly R. Ziegler, telephone 571–372–6095.

SUPPLEMENTARY INFORMATION:

I. Background

This rule proposes to amend DFARS subpart 225.70 to implement section 817 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116–283). Section 817 amends 10 U.S.C. 2533a (commonly known as the ''Berry Amendment''), by reducing the dollar threshold at which an acquisition is excepted from the source restrictions of the Berry Amendment from the simplified acquisition threshold (SAT) to an amount not to exceed $150,000.

DFARS 225.7002 identifies the domestic source restrictions of 10 U.S.C. 2533a on food, clothing, fabrics, fibers, hand or measuring tools, and flags, unless an exception applies. DFARS 225.7002–2, Exceptions, has historically referred to ''actions at or below the small purchase threshold,'' rather than a specific dollar value, as an exception to the domestic source restrictions of the Berry Amendment. As a result, each time the SAT increased, the exception threshold also increased to align with the new SAT, to include the most recent SAT increase to $250,000. Federal Acquisition Regulation (FAR) Case 2018–004, published July 2, 2020 (85 FR 40064) raised the SAT at FAR 2.101 from $150,000 to $250,000.

II. Discussion and Analysis

The proposed rule implements section 817 of the NDAA for FY 2021 by revising the exception at DFARS 225.7002–2(a) from ''at or below the simplified acquisition threshold'' to ''not exceeding $150,000''. The net effect of this revision will be to increase the number of acquisitions subject to the domestic source requirements at DFARS 225.7002. Conforming changes will also be made at DFARS 225.7002–2(j)(2), 225.7002–3(b) and (c), and the associated contract clause 252.225–7012, Preference for Certain Domestic Commodities.

While the statute reduces the dollar value of the current exception threshold, it also authorizes the adjustment of this statutory threshold for inflation every five years, in accordance with 41 U.S.C. 1908.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold (SAT) and for Commercial Items, Including Commercially Available Off-the-Shelf (COTS) Items

This rule proposes to amend the applicability of the following DFARS clauses: (1) 252.225–7006, Acquisition of the American Flag; (2) 252.225–7012, Preference for Certain Domestic Commodities; and (3) 252.225–7015, Restriction on Acquisition of Hand or Measuring Tools. DoD does intend to apply the rule to contracts valued above $150,000 but at or below the SAT. The clauses impacted by the rule are already prescribed for use in solicitations and contracts using FAR part 12 procedures for the acquisition of commercial items, including COTS items.

A. Applicability to Contracts at or Below the Simplified Acquisition Threshold

41 U.S.C. 1905 governs the applicability of laws to contracts or subcontracts in amounts not greater than the simplified acquisition threshold. It is intended to limit the applicability of laws to such contracts or subcontracts. 41 U.S.C. 1905 provides that if a provision of law contains criminal or civil penalties, or if the Federal Acquisition Regulatory Council makes a written determination that it is not in the best interest of the Federal Government to exempt contracts or subcontracts at or below the SAT, the law will apply to them. The Principal Director, Defense Pricing and Contracting (DPC), is the appropriate authority to make comparable determinations for regulations to be published in the DFARS, which is part of the FAR system of regulations. DoD does intend to make that determination. Therefore, this rule will apply below the simplified acquisition threshold.

B. Determination

DoD plans to apply the rule to contracts valued above $150,000 but at or below the SAT for the following DFARS clauses: (1) 252.225–7006, Acquisition of the American Flag; (2) 252.225–7012, Preference for Certain Domestic Commodities; and (3) 252.225–7015, Restriction on Acquisition of Hand or Measuring Tools.

Not applying these clauses to contracts valued above $150,000 but at or below the SAT would exclude contracts intended to be covered by this rule and undermine the overarching purpose of the rule, which is to increase the number of acquisitions subject to the domestic source restrictions at DFARS 225.7002 by reducing the volume of procurements subject to the exception at DFARS 225.7002–2(a). The clauses already apply to commercial items, including COTS items.

IV. Expected Impact of the Rule

DFARS 225.7002 identifies the domestic source restrictions of 10 U.S.C. 2533a on food, clothing, fabrics, fibers, hand or measuring tools, and flags, unless an exception at DFARS 225.7002–2 applies. Acquisitions valued

below the SAT, currently defined at FAR 2.201 as $250,000, are excepted from the domestic source restrictions of the Berry Amendment.

This rule proposes to implement section 817 of the NDAA for FY 2021 by reducing the exception threshold from the SAT to $150,000. DoD expects the reduction required by section 817 to result in an increase in the number of procurements of domestically sourced end products that are subject to 10 U.S.C. 2533a.

DoD estimates that approximately 970 procurements valued between $150,000 and the SAT of $250,000 are awarded to an estimated 400 entities annually, based upon data obtained from the Federal Procurement Data System (FPDS) for fiscal years 2018 through 2020. Until the final rule for FAR case 2018–004 (85 FR 40064), which increased the SAT from $150,000 to $250,000, became effective on August 31, 2020, these entities were required to comply with domestic source restrictions of the Berry Amendment, including the $150,000 exception threshold. It has only been since August 31, 2020, that these entities have had the benefit of the higher exception threshold (*i.e.,* the SAT of $250,000). DoD assumes that some of these entities may have adjusted their procurement sources in the short time since the threshold was raised, while some may have continued with their established supply chains. There is currently no data source that would identify the entities that made adjustments and would have to make additional adjustments to return to their previous practices.

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. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993.

VI. Congressional Review Act

As required by the Congressional Review Act (5 U.S.C. 801–808) before an interim or final rule takes effect, DoD will submit a copy of the interim or final rule with the form, Submission of Federal Rules Under the Congressional Review Act, to the U.S. Senate, the U.S. House of Representatives, and to the Comptroller General of the United States. A major rule under the Congressional Review Act cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not anticipated to be a major rule under 5 U.S.C. 804.

VII. Regulatory Flexibility Act

DoD does not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the types of end products or components subject to 10 U.S.C. 2533a are generally at a dollar value below the simplified acquisition threshold (SAT) and normally set aside for small entities. However, an initial regulatory flexibility analysis has been performed and is summarized as follows:

This rule proposes to amend the DFARS to implement section 817 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Pub. L. 116–283). Section 817 reduces the dollar threshold exception at DFARS 225.7002, which implements 10 U.S.C. 2533a (commonly known as the ''Berry Amendment''), from the SAT to an amount not to exceed $150,000.

The objective of the rule is to increase the number of acquisitions subject to the domestic source restrictions at DFARS 225.7002 by reducing the number of procurements subject to the exception at DFARS 225.7002–2(a). The legal basis of the rule is section 817 of the NDAA for FY 2021.

This rule is expected to affect small entities that participate in procurements subject to the domestic source restrictions at DFARS 225.7002. However, DoD does not expect a significant change in the number of actions awarded to small entities resulting from the reduction in the threshold from the current SAT of $250,000 to $150,000. To assess the impact of this reduction, data was obtained from the Federal Procurement Data System (FPDS). According to FPDS for fiscal years 2018 through 2020, DoD awarded an average of approximately 970 applicable actions valued above $150,000 but below the SAT. Of those actions, an average of 200 contract actions were awarded to approximately 72 unique small entities.

The rule does not impose any new reporting, recordkeeping, or compliance requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no practical alternatives that will accomplish the objectives of the statute.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small 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 (DFARS Case 2021–D010), in correspondence.

VIII. Paperwork Reduction Act

This rule does not contain any information collection requirements that require the approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are proposed to be amended as follows:

■ 1. The authority citation for 48 CFR Parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

225.7002–2 [Amended]

■ 2. Amend section 225.7002–2 by—

■ a. In paragraph (a), removing ''at or below the simplified acquisition threshold'' and adding ''not exceeding $150,000'' in its place; and

■ b. In paragraph (j)(2), removing ''simplified acquisition threshold'' and adding ''threshold at 225.7002–2(a)'' in its place.

225.7002–3 [Amended]

■ 3. Amend section 225.7002–3, in paragraphs (b) and (c), by removing ''simplified acquisition threshold'' and adding ''threshold at 225.7002–2(a)'' in both places.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend section 252.225–7012 by—

■ a. Revising the date of the clause;

■ b. In paragraph (a), in the definition of ''Structural component of a tent'', redesignating paragraphs (i) and (ii) as

paragraphs (1) and (2), and at the end of the newly redesignated paragraph (1) removing the semicolon and adding ''; and'' in its place, and

■ c. Revising paragraph (c)(2)(ii).

The revisions read as follows:

252.225–7012 Preference for Certain Domestic Commodities.

* * * * *

Preference for Certain Domestic Commodities (DATE)

* * * * *

(c) * * *

(2) * * *

(ii) Does not exceed the threshold at 225.7002–2(a);

* * * * *

[FR Doc. 2021–20939 Filed 9–28–21; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FF09E21000 FXES11110900000 212]

Endangered and Threatened Wildlife and Plants; Two Species Not Warranted for Listing as Endangered or Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of findings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce findings that two species are not warranted for listing as endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). After a thorough review of the best available scientific and commercial information, we find that it is not warranted at this time to list Black Creek crayfish (*Procambarus pictus*) or hairy-peduncled beakrush (*Rhynchospora crinipes*). However, we ask the public to submit to us at any time any new information relevant to the status of any of the species mentioned above or their habitats.

DATES: The findings in this document were made on September 29, 2021.

ADDRESSES: Detailed descriptions of the bases for these findings are available on the internet at *http://www.regulations.gov* under the following docket numbers:

Species	Docket No.
Black Creek crayfish	FWS–R4–ES–2021–0045
Hairy-peduncled beakrush	FWS–R4–ES–2021–0046

Supporting information used to prepare this finding is available by contacting the appropriate person as specified under **FOR FURTHER INFORMATION CONTACT**. Please submit any new information, materials, comments, or questions concerning this finding to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT:

Species	Contact information
Black Creek crayfish	Lourdes Mena, Chief of Listing and Recovery, Jacksonville Fish and Wildlife Office, 904–731–3134, *lourdes_mena@fws.gov*.
Hairy-peduncled beakrush	Stephen Ricks, Field Supervisor, Mississippi Ecological Services Field Office, 601–321–1122, *stephen_ricks@fws.gov*.

If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding whether or not a petitioned action is warranted within 12 months after receiving any petition for which we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted (''12-month finding''). We must make a finding that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted but precluded. We must publish a notification of these 12-month findings in the **Federal Register**.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists of Endangered and Threatened Wildlife and Plants (Lists). The Act defines ''species'' as any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature (16 U.S.C. 1532(16)). The Act defines ''endangered species'' as any species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)), and ''threatened species'' as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). Under section 4(a)(1) of the Act, a species may be determined to be an endangered species or a threatened species because of any of the following five factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or

required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term ''foreseeable future'' extends only so far into the future as the Service can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether Black Creek crayfish or hairy-peduncled beakrush meet the definition of ''endangered species'' or ''threatened species,'' we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. We reviewed the petitions, information available in our files, and other available published and unpublished information. Our evaluation may include information from recognized experts; Federal, State, and Tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

The species assessment forms for these species contain more detailed biological information, a thorough analysis of the listing factors, a list of literature cited, and an explanation of why we determined that the species does not meet the Act's definition of an endangered species or a threatened species. A thorough review of the taxonomy, life history, and ecology of the Black Creek crayfish and the hairy-peduncled beakrush is presented in the species' Species Status Assessment reports. This supporting information can be found on the internet at *http://www.regulations.gov* under the appropriate docket number (see **ADDRESSES**, above). The following are informational summaries for the findings in this document.

Black Creek Crayfish

Previous Federal Actions

On April 20, 2010, the Service received a petition from the Center for Biological Diversity (CBD), Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including the Black Creek crayfish (*Procambarus pictus*), from the southeastern United States as endangered or threatened species under the Act (CDB 2010, entire). On September 27, 2011, we published a 90-day finding (76 FR 59836) for 374 of the 404 petitioned species, including the Black Creek crayfish, stating the petition presented substantial information that listing the Black Creek crayfish may be warranted, due to the threats of present or threatened destruction, modification, or curtailment of the species' habitat or range and inadequacy of existing regulatory mechanisms. The finding solicited information on, and initiated status reviews for, the 374 species, including the Black Creek crayfish.

On February 27, 2020, CBD filed a complaint alleging, among other things, that the Service failed to make statutorily required 12-month findings for 241 species, including the Black Creek crayfish. The Service moved to dismiss most of the actions, including the 12-month finding claim for the Black Creek crayfish, on May 4, 2020. The motion is fully briefed, and the court has not ruled on it as of July 12, 2021. However, we are effectively mooting the claim by publishing this notification, which fulfils our statutory duty to make a 12-month finding for the Black Creek crayfish.

Summary of Finding

The Black Creek crayfish is endemic to four northeastern Florida counties (Clay, Duval, Putnam, and St. Johns) in the Lower St. Johns River Basin. This small to medium-sized crayfish has dark claws and a dark carapace with a white or yellowish mid-dorsal stripe, white spots or streaks on its sides, and a rust-colored abdomen. The Black Creek crayfish lives about 16 months and reproduces once during its life cycle. The Black Creek crayfish occurs in flowing, sand-bottomed, tannic-stained streams that contain cool, unpolluted water, and maintain a constant flow of highly oxygenated water (5 to 8 parts per million). Within these streams, Black Creek crayfish require aquatic vegetation and debris for shelter with alternating shaded and open canopy cover where they eat aquatic plants, dead plant and animal material, and detritus.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Black Creek crayfish, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. The potential threats affecting the Black Creek crayfish are due to land conversion impacts and from climate change. The threat of land conversion impacts includes water quality and water quantity degradation from urbanization mining, logging, and agriculture, and the threat of climate change primarily is from sea level rise (SLR), and combined effects. These threats can impact the Black Creek crayfish by degrading or inundating its habitat. The effects from these impacts may result in a decrease in habitat quality and quantity across the species'

range during some years. However, significant ongoing conservation actions are protecting the species.

Currently, 47% of Black Creek crayfish habitat is protected, including Camp Blanding Joint Training Center (Camp Blanding) conservation agreements. The range of the Black Creek crayfish largely overlaps public lands managed by the Florida Army National Guard, Camp Blanding, and the Florida Forest Service, specifically 2 state forests: Jennings and Etoniah Creek. These lands are wildlife management areas wherein wildlife is managed by the Florida Wildlife Conservation Commission and the Florida Forest Service. Additional conservation lands with occurrence records for Black Creek crayfish include parcels owned by the St. John's River Water Management District (District) and mitigation banks. Management of the upland habitat adjacent to Black Creek crayfish habitat is provided by Camp Blanding and the Florida Forest Service, while the District has regulatory authority regarding water quality.

Upon examining the current trends and future forecast scenarios, we expect that the primary threats—water quality and water quantity degradation due to land conversion, and SLR from climate change—may impact the Black Creek crayfish. But a substantial portion (47 percent) of the habitat is protected (Camp Blanding conservation agreements, Florida Forest Service, and the District), alleviating many of the primary threats to the crayfish. Habitat protection and conservation measures, including measures to manage and protect water quality and water quantity degradation, maintain adequate water conditions and flows that will keep a sufficient number of populations viable to ensure overall species viability into the foreseeable future (30–50 years). In addition, protection of special management zones (SMZs) may reduce its contribution to nonpoint source water pollution. SMZs are meant to provide shade for temperature regulation, a natural vegetation strip, intact ground cover, large and small woody debris, leaf litter, and a variety of tree species and age classes, most of these benefitting Black Creek crayfish. Also, monitoring of SLR by Camp Blanding and the District in protected habitat areas will help inform the Service on the status of the SLR threat. All 19 extant Black Creek crayfish populations are expected to maintain resiliency, redundancy, and representation under examined future scenarios out to 2050 and 10 out to 2070 with conservation measures. We examined the interactions of the white tubercled crayfish (*Procambarus spiculifer*), and while uncertainty still exists, the possibility remains that white tubercled crayfish may have the potential to decrease occupancy and abundance of Black Creek crayfish; however, the best available information indicates that it is likely that the two species co-exist at sites where Black Creek crayfish occur (Service 2020, p.37, 39, Fig. 4–6)). We expect that existing regulatory mechanisms and conservation measures are adequate and would continue to help ameliorate or reduce impacts of threats to the species and protect the Black Creek crayfish and its habitat which would also help the Black Creek crayfish continue to maintain an adequate level of resiliency, representation, and redundancy now and into the foreseeable future (30 to 50 years). For Black Creek crayfish, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. We examined the following threats: Land use conversion impacts and climate change, including cumulative effects. Based on the species' response to threats, current resiliency, and predicted future resiliency throughout its range, we found no concentration of threats in any portion of the Black Creek crayfish's range at a biologically meaningful scale. We found that the identified threats act uniformly throughout the range, because it occurs in four northeastern Florida counties (Clay, Duval, Putnam, and St. Johns) in the Lower St. Johns River Basin that are geographically close to each other. Thus, there are no portions of the species' range where the species has a different status from its range-wide status.

After evaluating the best available scientific and commercial information on potential threats acting individually or in combination, we found that all 19 extant Black Creek crayfish populations are expected to maintain resiliency, redundancy, and representation, under examined future scenarios out to 2050, and 10 out to 2070 with conservation measures, in all or a significant portion of the species' range.

Our review of the best available scientific and commercial information regarding the past, present, and future threats to the species indicates that the Black Creek crayfish is not in danger of extinction nor likely to become endangered within the foreseeable future throughout all or a significant portion of its range, and that the Black Creek crayfish does not meet the definition of an endangered species or a threatened species under the Act. Therefore, we find that listing the Black Creek crayfish as an endangered or threatened species under the Act is not warranted at this time. A detailed discussion of the basis for this finding can be found in the Black Creek crayfish species assessment form and other supporting documents (see **ADDRESSES**, above).

Hairy-Peduncled Beakrush

Previous Federal Actions

On April 20, 2010, the Service received a petition from CBD, Alabama Rivers Alliance, Clinch Coalition, Dogwood Alliance, Gulf Restoration Network, Tennessee Forests Council, and West Virginia Highlands Conservancy to list 404 aquatic, riparian, and wetland species, including hairy-peduncled beakrush (*Rhynchospora crinipes*), from the southeastern United States as endangered or threatened species under the Act (CDB 2010, entire). On September 27, 2011, we published a 90-day finding (76 FR 59836) for 374 of the 404 petitioned species, including hairy-peduncled beakrush, stating that the petition presented substantial information indicating that listing hairy-peduncled beakrush may be warranted, due to the threats of present or threatened destruction, modification, or curtailment of the species' habitat or range and inadequacy of existing regulatory mechanisms. The finding solicited information on, and initiated status reviews for, the 374 species, including hairy-peduncled beakrush. Hairy-peduncled beakrush is on the Service's National Workplan for a 12-month finding in Fiscal Year 2021.

On February 27, 2020, CBD filed a complaint alleging, among other things, that the Service failed to make statutorily required 12-month findings for 241 species, including the hairy-peduncled beakrush. The Service moved to dismiss most of the actions, including the 12-month finding claim for the hairy-peduncled beakrush, on May 4, 2020. The motion is fully briefed, and the court has not ruled on it as of July 12, 2021. However, we are effectively mooting the claim by publishing this notification, which fulfils our statutory duty to make a 12-month finding for the hairy-peduncled beakrush.

Summary of Finding

A member of the sedge family (Cyperaceae), hairy-peduncled beakrush is a perennial grass-like herb that occurs solitary or as clumps to dense mats of plants typically 2–3¼ feet (60–100

centimeters) tall. Hairy-peduncled beakrush has a broad geographic range within the southeastern United States, spanning nearly 700 miles (over 1,100 kilometers) from southwestern Mississippi to central North Carolina. The species has been found in at least 28 counties in 5 southeastern States: Mississippi (5 counties), Alabama (6 counties), Florida (5 counties), Georgia (10 counties) and North Carolina (2 counties).

Hairy-peduncled beakrush typically occurs on banks and bars along blackwater streams and associated spring runs that are prone to flooding and periodic scouring. Within these systems, plants are often found in peaty silt on streamside shelves or sandy-clay stream bars, but have also occasionally been found rooting on stumps and tree bases as well as in the streambed. The species is an obligate wetland species, meaning that they are almost always found in standing water or soils that are seasonally saturated. Hairy-peduncled beakrush plants typically occur in full sun to partly shady conditions under open to filtered canopies, often along north-south oriented streams. The species' deep, extensive root system provides a strong attachment to the substrate and allows it to withstand strong flood events, which may also provide a competitive advantage over other species with weaker root systems that are more readily washed away during flood events. Likewise, hairy-peduncled beakrush's ability to root at its nodes allows it to withstand being partially buried by sediment deposited during flooding events and facilitates clonal spread. Together, these adaptations to flooding and sedimentation suggest that hairy-peduncled beakrush is not only tolerant of disturbance, but may be disturbance-dependent, with periodic disturbances (such as scouring floods) being required to remove competing vegetation from occupied and unoccupied habitat, thereby allowing the species to thrive and spread locally and disperse more widely.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to hairy-peduncled beakrush, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these stressors. The primary stressors affecting the hairy-peduncled beakrush include sedimentation from development and urbanization, incompatible logging practices, military and recreational activities, sand and gravel mining, and an altered hydrologic regime resulting from climate change and development and urbanization. Sedimentation currently represents a localized threat to hairy-peduncled beakrush. Activities that produce excessive sedimentation may smother plants or otherwise degrade habitats; however, hairy-peduncled beakrush is able to tolerate at least some sediment deposition, as partially buried plants have been observed rooting at their buried nodes. This adaptation limits the threat to hairy-peduncled beakrush from all but the most extreme sedimentation events. Flooding has been suggested as a threat to hairy-peduncled beakrush; however, natural flooding is unlikely a major threat to hairy-peduncled beakrush rangewide in light of its association with systems that are subject to periodic flooding and various other natural disturbances that may contribute to extreme flooding (*e.g.,* hurricanes, tropical storms), which suggests that the species is adapted to tolerate such periodic disturbances.

Sedimentation and hydrologic regime changes are influenced by development and urbanization, incompatible logging practices, sand and gravel mining, activities on military installations, and right-of-way maintenance; however, most of these threats are considered historical, or occur on a very limited number of sites, or are actively managed and monitored by Federal and State agencies through adequate regulatory protections. In the assessment of hairy-peduncled beakrush current condition, 30 populations (of a total of 39 populations) exhibit moderate to high resiliency, as evidenced by population size, multiple subpopulations, current status and resilience through time, and little evidence of threats. Although changes in the hydrologic regime may occur as a result of climate change, the species is resilient to fluctuating water levels and relies on periodic high flow events to some extent for dispersal of propagules and removal of competing vegetation (*i.e.,* hairy-peduncled beakrush is a disturbance-dependent species).

Our future scenarios assessed the viability of hairy-peduncled beakrush over a 40-year time period in response to urbanization and hydrological changes. In Scenario 1, current land protection and management are projected to remain unchanged, urbanization continues at the current pace, and changes to the hydrological regime are those predicted under a moderate emissions scenario, representative concentration pathway 4.5 (RCP 4.5). Under this scenario, 37 of 39 populations are predicted to remain at their current levels of resiliency, while 2 populations are expected to exhibit decreased resiliency by 2060. In Scenario 2, current land protection and management are projected to remain unchanged, urbanization increases relative to Scenario 1, and changes to the hydrological regime are those predicted under a higher atmospheric emission scenario (RCP 8.5). Under this scenario, four populations are expected to exhibit decreased resiliency and one population is expected to exhibit increased resiliency, while 34 are predicted to remain at their current levels of resiliency. We expect the species' representation and redundancy to remain high under both future scenarios.

For hairy-peduncled beakrush, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. We examined the following threats: Sedimentation and hydrologic regime change, including cumulative effects. Based on the species' adaptation to stressors, current resiliency, and predicted future resiliency throughout its range, we found no concentration of threats in any portion of hairy-peduncled beakrush's range at a biologically meaningful scale. Thus, there are no portions of the species' range where the species has a different status from its range-wide status.

After evaluating the best available scientific and commercial information on potential stressors acting individually or in combination, we found no indication that the combined effects are causing a population-level decline, or that the combined effects are likely to do so in the next 10 to 40 years, in all or a significant portion of the species' range.

Therefore, we find that listing hairy-peduncled beakrush as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the hairy-peduncled beakrush species assessment and other supporting documents (see **ADDRESSES**, above).

New Information

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the Black Creek crayfish or hairy-peduncled beakrush to the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor these species and make appropriate decisions about their conservation and status. We encourage local agencies and

stakeholders to continue cooperative monitoring and conservation efforts.

References Cited

A list of the references cited in these petition findings is available on the internet at *http://www.regulations.gov* in the species assessment form or in the appropriate docket provided above in **ADDRESSES**, or upon request from the appropriate person, as specified under **FOR FURTHER INFORMATION CONTACT**.

Authors

The primary authors of this document are the staff members of the Species Assessment Team, Ecological Services Program.

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–20923 Filed 9–28–21; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FF09E21000 FXES11110900000212]

Endangered and Threatened Wildlife and Plants; 90-Day Findings for Five Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of petition findings and initiation of status reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on four petitions to add species to the Lists of Endangered and Threatened Wildlife and Plants and one petition to downlist a species from endangered to threatened under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions to list the American bumble bee (*Bombus pensylvanicus*), Long Valley speckled dace (*Rhinichthys osculus ssp.*), and Siuslaw hairy-necked tiger beetle (*Cicindela hirticollis siuslawensis*) present substantial scientific or commercial information indicating that the petitioned actions may be warranted. Therefore, with the publication of this document, we announce that we plan to initiate status reviews of these species to determine whether the petitioned actions are warranted. To ensure that the status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding the species and factors that may affect their status. Based on the status reviews, we will issue 12-month petition findings, which will address whether or not the petitioned actions are warranted, in accordance with the Act. We further find that the petition to list the Tucson shovel-nosed snake (*Chionactis annulata klauberi*) and the petition to downlist the Florida torreya (*Torreya taxifolia*) do not present substantial scientific or commercial information indicating the petitioned action may be warranted. Therefore, we are not initiating a status review of those two species.

DATES: These findings were made on September 29, 2021. As we commence our status reviews, we seek any new information concerning the status of, or threats to, the American bumble bee, Long Valley speckled dace, Siuslaw hairy-necked tiger beetle, or their habitats. Any information we receive during the course of our status reviews will be considered.

ADDRESSES:

Supporting documents: Summaries of the basis for the petition findings contained in this document are available on *http://www.regulations.gov* under the appropriate docket number (see tables under **SUPPLEMENTARY INFORMATION**). In addition, this supporting information is available by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**.

Status reviews: If you have new scientific or commercial data or other information concerning the status of, or threats to, the American bumble bee, Long Valley speckled dace, Siuslaw hairy-necked tiger beetle, or their habitats, please provide those data or information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter the appropriate docket number (see Table 1 under **SUPPLEMENTARY INFORMATION**). Then, click on the ''Search'' button. After finding the correct document, you may submit information by clicking on ''Comment.'' If your information will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard* copy: Submit by U.S. mail to: Public Comments Processing, Attn: [Insert appropriate docket number; see Table 1 under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us.

FOR FURTHER INFORMATION CONTACT:

Species common name	Contact person
American bumble bee	Louise Clemency, Field Supervisor, Chicago Ecological Services Field Office, 312–489–0777, louise_
Florida torreya	Lourdes Mena, Classification and Recovery Division Manager, Florida Ecological Services Field Office, 904–731–3134, *lourdes_mena@fws.gov.*
Long Valley speckled dace	Marc Jackson, Field Supervisor, Reno Fish and Wildlife Office, 775–861–6337, *marc_jackson@fws.gov.*
Siuslaw hairy-necked tiger beetle	Michele Zwarties, Field Supervisor, Oregon Fish and Wildlife Office, 503–231–6179, *michele_zwartjes@fws.gov.*
Tucson shovel-nosed snake	Jeff Humphrey, Field Supervisor, Arizona Ecological Services Office, 602–242–0210, *jeff_humphrey@fws.gov.*

If you use a telecommunications device for the deaf, please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding species to, removing species from, or reclassifying species on the Federal Lists of Endangered and Threatened Wildlife and Plants (Lists or List) in 50 CFR part 17. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to add a species to the List (*i.e.,* ''list'' a species), remove a species from the List (*i.e.,* ''delist'' a species), or change a listed species' status from endangered to threatened or from threatened to endangered (*i.e.,* ''reclassify'' a species) presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Our regulations establish that substantial scientific or commercial information with regard to a 90-day petition finding refers to credible scientific or commercial information in support of the petition's claims such that a reasonable person conducting an impartial scientific review would conclude that the action proposed in the petition may be warranted (50 CFR 424.14(h)(1)(i)).

A species may be determined to be an endangered species or a threatened species because of one or more of the five factors described in section 4(a)(1) of the Act (16 U.S.C. 1533(a)(1)). The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); and

(e) Other natural or manmade factors affecting its continued existence (Factor E).

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to, or are reasonably likely to, affect individuals of a species negatively. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition, or the action or condition itself. However, the mere identification of any threat(s) may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an endangered species or threatened species under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual-, population-, and species-level effects and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that are expected to have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an endangered species or threatened species under the Act.

If we find that a petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted, the Act requires that we promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

We note that designating critical habitat is not a petitionable action under the Act. Petitions to designate critical habitat (for species without existing critical habitat) are reviewed under the Administrative Procedure Act and are not addressed here (see 50 CFR 424.14(j)). To the maximum extent prudent and determinable, any proposed critical habitat will be addressed concurrently with a proposed rule to list a species, if applicable.

Summaries of Petition Findings

The petition findings contained in this document are listed in the tables below, and the basis for each finding, along with supporting information, is available on *http://www.regulations.gov* under the appropriate docket number.

TABLE 1—STATUS REVIEWS

Common name	Docket No.	URL to docket on *http://www.regulations.gov*
American bumble bee	FWS–R3–ES–2021–0063	*https://www.regulations.gov/docket/FWS-R3-ES-2021-0063*
Long Valley speckled dace	FWS–R8–ES–2021–0065	*https://www.regulations.gov/docket/FWS-R8-ES-2021-0065*
Siuslaw hairy-necked tiger beetle	FWS–R1–ES–2021–0066	*https://www.regulations.gov/docket/FWS-R1-ES-2021-0066*

TABLE 2—NOT-SUBSTANTIAL PETITION FINDINGS

Common name	Docket No.	URL to Docket on *http://www.regulations.gov*
Florida torreya	FWS–R4–ES–2021–0064	*https://www.regulations.gov/docket/FWS-R4-ES-2021-0064*
Tucson shovel-nosed snake	FWS–R2–ES–2021–0067	*https://www.regulations.gov/docket/FWS-R2-ES-2021-0067*

Evaluation of a Petition To List American Bumble Bee

Species and Range

American bumble bee (*Bombus pensylvanicus*); Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia; Canada (Ontario); and Mexico.

Petition History

On February 1, 2021, we received a petition from the Center for Biological Diversity and the Bombus Pollinators Association of Law Students of Albany Law School, requesting that the American bumble bee be listed as an endangered species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition and sources cited in the petition. We considered the factors under the Act's section 4(a)(1) and assessed the effect that the threats identified within the factors—as may be ameliorated or exacerbated by any existing regulatory mechanisms or conservation efforts—may have on the species now and in the foreseeable future. Based on our review of the petition and sources cited in the petition regarding pathogen spillover (Factor C), we find that the petition presents substantial scientific or commercial information indicating that listing the American bumble bee as an endangered or threatened species may be warranted. The petitioners also present information suggesting the following may be threats to the American bumble bee: Habitat destruction from agricultural intensification, livestock grazing, and pesticide use; loss of genetic diversity; climate change; and competition from nonnative honeybees. We will fully evaluate these potential threats during our status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making our 12-month finding.

The basis for our finding on this petition and other information regarding our review of the petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R3–ES–2021–0063 under the Supporting Documents section.

Evaluation of a Petition To Downlist Florida Torreya

Species and Range

Florida torreya (*Torreya taxifolia*); northern Florida and Georgia.

Petition History

On December 12, 2019, we received a petition dated September 9, 2018, from Connie Barlow, requesting that the Florida torreya be downlisted from endangered to threatened because the species does not meet the definition of an ''endangered species'' under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, as specified at 50 CFR 424.14(c). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition does not present substantial scientific or commercial information indicating the petitioned action may be warranted for the Florida torreya. Based on the Service's 2010 5-year review, the species is considered extremely vulnerable due to its limited range, low population numbers, and rarity of habitat. The primary decline in species abundance is thought to have resulted from fungal pathogens during the 1950s and 1960s, and/or a combination of environmental stress and native pathogens, but studies have yet to provide an explanation.

We found that the petition does not present credible scientific and commercial information to support the claim that the destruction, modification, or curtailment of the Florida torreya's habitat or range have been ameliorated (Factor A). Additionally, the petition does not provide substantial evidence that would lead a reasonable person to believe that the historical range of the Florida torreya is larger than described at the time the species was listed. We acknowledge that the petition provides additional documentation on the effects of disease at localities outside of the Florida torreya's native range (Factor C), including the locations and conditions of many northern outplantings, and provides new information regarding the species' natural history and best propagation practices (Factor E); however, the petition does not present substantial information indicating that the primary threats to the species have been reduced or removed such that the species may be warranted for downlisting to threatened status.

Because the petition does not present substantial information indicating that downlisting the Florida torreya may be warranted, we are not initiating a status review of this species in response to this petition. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, this species or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**, above).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2021–0064 under the Supporting Documents section.

Evaluation of a Petition To List Long Valley Speckled Dace

Species and Range

Long Valley speckled dace (*Rhinichthys osculus ssp.*); historical range: Upper Owens River watershed, Mono County, California; current range: Whitmore Hot Spring, Mono County, California. (Long Valley speckled dace may be extirpated in the wild, and only found in an artificial pond in Inyo County, California, outside of their historical range.)

Petition History

On June 24, 2020, we received a petition, dated June 8, 2020, from the Center for Biological Diversity (CBD), requesting that the Service take several actions regarding three speckled dace entities, including the Long Valley speckled dace (*Rhinichthys osculus ssp.*). Only the request to list the Long Valley speckled dace as an endangered, separate subspecies of speckled dace (*R. osculus*) was found to be a valid petition.

The CBD clearly identified their document as a petition and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition for the Long Valley speckled dace.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. Based on our review of the petition and readily available information regarding geothermal energy development (Factor A), surface water diversions (Factor A), habitat alteration from recreational activities (Factor A), livestock grazing (Factor A), disease (Factor C), regulatory

mechanisms regarding water quality and groundwater management (Factor D), introduced species (Factor E), and climate change (Factor E), we find that the petition presents substantial scientific or commercial information indicating that listing the Long Valley speckled dace (*Rhinichthys osculus ssp.*) as an endangered subspecies of speckled dace (*R. osculus*) may be warranted. We will fully evaluate all potential threats during our status review, pursuant to the Act's requirement to review the best scientific and commercial information available when making our 12-month finding.

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2021–0065 under the Supporting Documents section.

Evaluation of a Petition To List Siuslaw Hairy-Necked Tiger Beetle

Species and Range

Siuslaw hairy-necked tiger beetle (*Cicindela hirticollis siuslawensis*); Coos, Curry, Douglas, and Lane County, Oregon; and Grays Harbor and Pacific County, Washington.

To support the claim that the Siuslaw hairy-necked tiger beetle (*Cicindela hirticollis siuslawensis* (Graves 1988)) is a valid subspecies and therefore eligible for protection under the Act, the petition described below cites to two sources: the Integrated Taxonomic Information System (ITIS 2020, p. 1) and Pearson *et al.* (2015, p. 79). ITIS considers *Cicindela hirticollis siuslawensis* to be a valid subspecies. However, Pearson *et al.* (2015) calls the validity of the subspecies into question and recommends further study. For this finding, the fact that ITIS (2020) recognizes *Cicindela hirticollis siuslawensis* as a valid taxon, and to our knowledge no further study has invalidated its taxonomic status as a subspecies, leads us to conclude that there is substantial information that the Siuslaw hairy-necked tiger beetle may be a valid listable entity under the Act. However, we will conduct a complete review of the best available scientific information on taxonomy at the time of our status review, pursuant to the Act's requirements.

Petition History

On November 12, 2020, we received a petition dated November 9, 2020, from the CBD and Xerces Society for Invertebrate Conservation requesting that the Siuslaw hairy-necked tiger beetle (*Cicindela hirticollis siuslawensis*) be listed as an endangered or threatened species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. Based on our review of the petition and readily available information regarding off-highway vehicle (OHV) use (Factor A), breaching and dredge spoil deposition (Factor A), invasive species (Factor A), bulldozing and sand deposition (Factor A), regulatory mechanisms regarding OHV use and controlling recreational use (Factor D), human disturbance (Factor E), sea level rise and flooding (Factor E), and coastal erosion (Factor E), we find that the petition presents substantial scientific or commercial information indicating that listing the Siuslaw hairy-necked tiger beetle as an endangered or threatened species may be warranted. The petitioners also presented information suggesting that habitat destruction or fragmentation as a result of development and inbreeding depression may be threats to the Siuslaw hairy-necked tiger beetle. We will fully evaluate all potential threats during our status review, pursuant to the Act's requirement to review the best available scientific information when making our 12-month finding.

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2021–0066 under the Supporting Documents section.

Evaluation of a Petition To List the Tucson Shovel-Nosed Snake

Species and Range

Tucson shovel-nosed snake (*Chionactis annulata klauberi*).

Historical range—The range of the western shovel-nosed snake (*Chionactis occipitalis*), which includes the Tucson shovel-nosed snake subspecies, extended from southern Nevada and southern California, across southwestern Arizona and into Mexico. The Tucson shovel-nosed snake has been recognized as a subspecies of the western shovel-nosed snake since 1941, but its range was not defined. Klauber (1951) described locations of the Tucson shovel-nosed snake subspecies in eastern Pima and Pinal Counties, Arizona, from Tucson northwest to Picacho and then north to Florence Junction. These locations were primarily based on morphological color patterns of the subspecies. He also described intergradation (areas where populations of two distinct subspecies are connected that have the characteristics of both) with another western shovel-nosed snake subspecies in Maricopa County and western portions of Pinal and Pima Counties from Casa Grande West to Gila Bend, north to Aguila, and South to Ajo, Arizona.

Current range—In our 2014 species status assessment (SSA) of the Tucson shovel-nosed snake, we determined the current range of the Tucson shovel-nosed snake to encompass 7,783,875 acres (3,150,022 hectares) within Pima, Pinal, Maricopa, Yavapai, Yuma, and La Paz Counties in central and western Arizona (Wood *et al.* 2014; Service 2014b, p. 14). Because the Tucson shovel-nosed snake exhibits many different color patterns throughout its range, we relied on genetic data to define the subspecies' range (Service 2014b, pp. 13–14).

The petitioner disagrees with our determination of current range in our 2014 SSA and subsequent 12-month finding that listing the species was not warranted (79 FR 56730; September 23, 2014). The petitioner believes that the current range of the Tucson shovel-nosed snake includes western Pima, Pinal, and Maricopa Counties in central Arizona, based on a different interpretation of the taxonomic revision described in Wood *et al.* (2014, entire) than our interpretation. The petitioner limits the current range of the subspecies to include snakes that share genetic characteristics with *C. a. klauberi* and also have the same color pattern as the Tucson shovel-nosed snake. The petitioner's definition of the current range relies on color pattern to limit the range of the subspecies, whereas our definition relies solely on the genetics of the subspecies.

The western shovel-nosed snake is a highly variable species with regard to color patterns throughout its range. Although some western shovel-nosed snakes may look like a particular subspecies, genetic analyses commonly indicate a snake is actually a different subspecies than its color pattern suggests. Similar to the western shovel-nosed snake species as a whole, finding snakes that are phenotypically diverse but genetically similar is the norm for several valleys in the Tucson shovel-nosed snake's historical range in Arizona. Therefore, we concluded in our 2014 SSA that the species' current range includes an additional 4,943,728

acres (2,000,655 hectares) that extents westward into La Paz County, Arizona because of their genetic similarity, which expands the range beyond what the petitioners' identify as the current range in their petition. Refer to our 2014 SSA, available at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2021–0067, for more information on the genetic analysis of this subspecies.

Petition History

On October 20, 2020, we received a petition dated September 24, 2020, from the CBD requesting that the Tucson shovel-nosed snake be listed as an endangered or threatened species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). This finding addresses the petition.

We previously received a petition from the same petitioner requesting that the Tucson shovel-nosed snake be listed as an endangered or threatened species and critical habitat be designated under the Act on December 14, 2004. We subsequently completed a substantial 90-day finding (73 FR 43905; July 29, 2008) and found listing was warranted but precluded by higher priority actions in a 12-month finding, when the Tucson shovel-nosed snake was added to the list of candidate species (75 FR 16050; March 31, 2010). On September 9, 2011, the Service entered into a settlement agreement where we were required to submit a proposed rule or not warranted 12-month finding for the Tucson shovel-nosed snake by September 30, 2014. Therefore, we completed an SSA in 2014 (Service 2014b) and published a 12-month finding (79 FR 56730; September 23, 2014) that concluded that listing the Tucson shovel-nosed snake as an endangered or threatened species was not warranted, and, therefore, we removed the subspecies from our candidate list. Where the prior review resulted in a final agency action, a petitioned action generally would not be considered to present substantial scientific and commercial information indicating that the action may be warranted unless the petition provides new information not previously considered (see 50 CFR 424.14(h)(iii)), which this petition did not.

Finding

We reviewed the petition, sources cited in the petition, and other readily available information. Based on our review of the petition, sources cited in the petition, and other readily available information, we find that the petition does not provide substantial scientific or commercial information indicating that listing the Tucson shovel-nosed snake as an endangered or threatened species may be warranted. The key difference between the petitioners' conclusions regarding the species' likely status and the conclusions in our 2014 finding relate to the difference in interpretation of the current range of the species, as described above. We stand by our previous determination that genetic analysis is a better scientific method than color patterns for determining which subspecies a shovel-nosed snake belongs to, and the petition did not contain any substantial or new information that indicated otherwise. Additionally, almost all of the information regarding potential threats to the Tucson shovel-nosed snake provided in and cited by the petition were previously considered in our 2014 not warranted finding. Although the petition provides some new information regarding specific impacts from proposed Interstate 11, our previous finding considered the likely additional impacts of future development in this area. Our review of the petition found that any potential impact to the Tucson shovel-nosed snake from proposed Interstate 11 is not likely to significantly affect Tucson shovel-nosed snake individuals.

Because the petition does not present substantial information indicating that listing the Tucson shovel-nosed snake may be warranted, we are not initiating a status review of this subspecies in response to this petition. However, we ask that the public submit to us any new information that becomes available concerning the status of, or threats to, this subspecies or its habitat at any time (see **FOR FURTHER INFORMATION CONTACT**, above).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R2–ES–2021–0067 under the Supporting Documents section.

Conclusion

On the basis of our evaluation of the information presented in the petitions under sections 4(b)(3)(A) and 4(b)(3)(D)(i) of the Act, we have determined that the petitions summarized above for American bumble bee, Long Valley speckled dace, and Siuslaw hairy-necked tiger beetle present substantial scientific or commercial information indicating that the petitioned actions may be warranted. We are, therefore, initiating status reviews of these species to determine whether the actions are warranted under the Act. At the conclusion of the status reviews, we will issue findings, in accordance with section 4(b)(3)(B) of the Act, as to whether the petitioned actions are not warranted, warranted, or warranted but precluded by pending proposals to determine whether any species is an endangered species or a threatened species. In addition, we have determined that the petitions summarized above for the Florida torreya and Tucson shovel-nosed snake do not present substantial scientific or commercial information indicating that the petitioned action may be warranted. We are, therefore, not initiating a status review of either of these species in response to the petitions.

Authors

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–20963 Filed 9–28–21; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 86, No. 186

Wednesday, September 29, 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

Submission for OMB Review; Comment Request

September 24, 2021.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: 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; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by October 29, 2021 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Timber Sale Contract Operations and Administration.

OMB Control Number: 0596–0225.

Summary of Collection: The Forest Service (FS) is authorized under the National Forest Management Act (16 U.S.C. 472a); Contract Disputes Act of 1978; Food, Conservation, and Energy Act of 2008; Executive Order 11246, as amended by E.O. 11375 and E.O. 12086; 36 CFR 223.30–60 and 36 CFR 223.110–118; 40 CFR 112 and Forest Resources Conservation and Shortage Relief Act of 1990, § 620d Monitoring and Enforcement, as amended in 1997 by Public Law 105–83 and current through Public Law 110–450 and Agricultural Act of 2014, Title VIII Forestry, to collect information associated with operations and administration of bilateral contracts for the sale of timber and other forest products.

Need and Use of the Information: The information is needed by the FS for a variety of uses associated with operations and administration of contracts for the sale and disposal of National Forest System timber and other forest products. The information collected includes plans, inspections, requests for action by the other party, agreements, modifications, acceptance of work, and notices necessary for operations under the terms of the contracts. Each contract specifies the information the contractor will be required to provide, including the timing and frequency of the information collection. The information is submitted in a variety of formats including FS forms; Government Standard forms; forms developed by individual contractors, charts, maps, email messages and letters.

Description of Respondents: Business or other for-profit; Farms; Not-for-profit institutions.

Number of Respondents: 1,370.

Frequency of Responses: Reporting: Annually; Semi-annually; Monthly; On occasion.

Total Burden Hours: 40,990.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–21182 Filed 9–28–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Alimentarius Commission

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S Codex Office is sponsoring a public meeting on October 21, 2021. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States (U.S.) positions for the 44th Session of the of the Codex Alimentarius Commission (CAC). The CAC will not be meeting physically due to the continued COVID–19 pandemic. The U.S. Manager for Codex Alimentarius and the Acting Deputy Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested parties the opportunity to obtain background information on the 44th Session of the CAC and to address items on the agenda.

DATES: The public meeting is scheduled for October 21, 2021, from 1:00–4:00 p.m. ET.

ADDRESSES: If you wish to participate in the public meeting for the 44th Session of the CAC, the meeting will be conducted by teleconference only to be consistent with public health guidance related to outbreaks of novel coronavirus (COVID–19). Documents related to the 44th Session of the CAC will be accessible via the internet at the following address: *http://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CAC&session=44* Mary Frances Lowe, U.S. Delegate to the 44th Session of the CAC, invites U.S. interested parties to submit their comments electronically to the following email address: *uscodex@usda.gov.*

Registration: Participants should register to participate in the public meeting at the following link: *https://www.zoomgov.com/meeting/register/vJIsc-GsqDotGb4l3ySJrLPQpRdHvb6jLuM.*

For further information about the 44th Session of the CAC or the public meeting, please contact the U.S. Codex Office, 1400 Independence Avenue SW, Room 4861, South Agriculture Building,

Washington, DC 20250, Telephone:(202) 205–7760, Fax: (202) 720–3157, Email: *uscodex@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius was established in 1963 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade; promotes coordination of all food standards work undertaken by international governmental and nongovernmental organizations; determines priorities, initiates, and guides the preparation of draft standards; finalizes the standards elaborated and publishes them in a Codex Alimentarius (food code) either as regional or worldwide standards, wherever this is practicable; and amends published standards, as appropriate, in the light of new developments.

Issues To Be Discussed at the Public Meeting

The following items on the Agenda for the 44th Session of the CAC will be discussed during the public meeting:

- Report by the Chairperson on the 80th and 81st Sessions of the Executive Committee (including matters referred)
- Amendments to the Procedural Manual
- Work of Codex Committees and Task Forces (adoption, new work, revocation, discontinuation, and editorial amendments to Codex texts proposed by the following committees and task force)
  - Codex Committee on Spices and Culinary Herbs
  - Codex Committee on Contaminants in Foods
  - Codex Committee on Methods of Analysis and Sampling
  - Codex Committee on Food Import and Export Inspection and Certification Systems
  - Codex Committee on Residues of Veterinary Drugs in Foods
  - Codex Committee on Pesticide Residues
  - Codex Committee on Food Additives
  - Codex Committee on Food Labelling
  - *Ad hoc* Codex Intergovernmental Task Force on Antimicrobial Resistance
- Editorial amendments to Codex texts proposed by the Codex Secretariat
- Matters arising from Codex Subsidiary Bodies
- Codex Budgetary and Financial Matters
- Matters arising from FAO and WHO
  - New food sources and production systems: need for Codex attention and guidance?
  - New FAO Food Safety Strategy 2022–2031—update of status
  - WHO Global Strategy for Food Safety 2022–2030—Update of the status
  - Codex Trust Fund: lessons learned from the COVID–19 pandemic
- Election of the Chairperson and Vice-Chairpersons and Members of the Executive Committee elected on a Geographical Basis
- Designation of Countries responsible for appointing the Chairpersons of Codex Subsidiary Bodies

Relevant documents are or will be available at: *http://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CAC&session=44.*

Each issue listed will be fully described in documents distributed, or to be distributed, by the Codex Secretariat before the CAC session. Members of the public may access or request copies of these documents (see **ADDRESSES**).

Public Meeting

At the October 21, 2021, public meeting, draft U.S. positions on the anticipated agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to the U.S. Delegate for the 44th Session of the CAC (see **ADDRESSES**). Written comments should state that they relate to activities of the 44th Session of the CAC.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA web page located at: *https://www.usda.gov/codex* that also offers an email subscription service providing access to information related to Codex. Customers can add or delete their subscription themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

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How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email.

Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410.

Fax: (202) 690–7442, Email: *program.intake@usda.gov.*

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington DC.

Mary Frances Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2021–21120 Filed 9–28–21; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Delaware Advisory Committee; Corrections

AGENCY: Commission on Civil Rights.

ACTION: Notice; corrections.

The Commission on Civil Rights published a notice in the **Federal Register** of Friday, September 17, 2021, concerning meetings of the Delaware Advisory Committee. The notice is in the **Federal Register** of Friday, September 17, 2021, in FR Doc. 2021–20182, in the third column of page 51863 and the first column of page 51864. The document omitted pertinent information for joining the meeting; the purpose of the meeting is replaced; and the contact information is replaced as follows:

- Joining Web Conference Meetings on Oct. 6, 2021, Nov. 3, 2021, and Dec 1, 2021: *https://bit.ly/2XqEM5W;* password, if needed: USCCR–DE; Join

by phone only, dial: 1–800–360–9505; Access code: 1996 49 4260#.

• The purpose of the meetings is to continue planning the Committee's review of its civil rights project on COVID–19 disparities experienced by people of color in Delaware.

FOR FURTHER INFORMATION CONTACT: Ivy L. Davis, at *idavis@usccr.gov* or by phone at 202–530–8468.

Dated: September 24, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–21171 Filed 9–28–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Annual Survey of School System Finances

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on August 25, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Department of Commerce.

Title: Annual Survey of School System Finances.

OMB Control Number: 0607–0700.

Form Number(s): F–33, F–33–L1, F–33–L2, F–33–L3.

Type of Request: Regular submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: 3,681.

Average Hours per Response: 1 hour and 11 minutes.

Burden Hours: 4,367.

Needs and Uses: The U.S. Census Bureau, on behalf of the U.S. Department of Education's National Center for Education Statistics (NCES), requests an extension with revisions of approval for the Annual Survey of School System Finances, OMB Number 0607–0700. The Census Bureau's collection of school district finance data and associated publications are the most comprehensive sources for pre-kindergarten through grade 12 finance data.

These data are collected from the universe of school districts using uniform definitions and concepts of revenue, expenditure, debt, and assets as defined by Financial Accounting for Local and State School Systems: 2014 Edition. This survey and the Annual Surveys of State and Local Government Finances (OMB No. 0607–0585) are conducted as part of the Census Bureau's State and Local Government Finance program. Data collected from cities, counties, states, and special district governments are combined with data collected from local school systems to produce state and national totals of government spending. Local school system spending comprises a significant portion of total government spending. In 2019, public elementary-secondary expenditures accounted for 35 percent of local government spending.

This comprehensive and ongoing time series collection of local education agency finances maintains historical continuity in the state and local government statistics community. Elementary-secondary education related spending is the single largest financial activity of state and local governments. Education finance statistics provided by the Census Bureau allow for analyses of how public elementary-secondary school systems receive and spend funds. Increased focus on education has led to a demand for data reflecting student performance, graduation rates, and school finance policy—all of which are related to the collection of this local education finance data. State legislatures, local leaders, university researchers, and parents increasingly rely on data to make substantive decisions about education. School district finance is a vital sector of the education data spectrum used by stakeholders to form policy and to develop new education strategies.

The revisions, which will be incorporated in the FY 21 collection scheduled for mailing in January 2022, will expand the collection of data items in response to the COVID–19 pandemic to include additional federal assistance funds. In addition to continuing the collection of several data items for the Coronavirus Aid, Relief, and Economic Security (CARES) Act, four new data items will be added for the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA) and the American Rescue Plan Act (ARP Act). The Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA), Public Law 116–260, was enacted on December 27, 2020. CRRSA authorizes $82.00 billion in support for education. The American Rescue Plan Act (ARP Act) was enacted in March 2021. Under the ARP Act, $169.46 billion was allocated to the U.S. Dept. of Education to support ongoing state and institutional COVID–19 recovery efforts. The ARP included Elementary and Secondary School Emergency Relief (ESSER) allocations in the amount of $121.97 billion.

The Census Bureau also plans to modify the expenditure items collecting data on the CARES Act to include expenditures from all COVID–19 federal assistance funds, accounting for the passage of these two laws by Congress. The collection of expenditures for COVID–19 federal assistance funds will also be expanded with two new data items for operation and maintenance of plant support services expenditures, and food services operation expenditures by local education agencies. These two new data items and their definitions exactly match data items collected on the National Public Education Financial Survey, a state-level school finance collection also sponsored by NCES and administered by the Census Bureau.

In addition to these changes, the Census Bureau will also remove two revenue data items from the COVID–19 federal assistance funds section of the survey; the data items collecting revenue amounts for local education agencies for the CARES Act Education Stabilization Fund—Rethink K–12 Education Models (ESF–REM) Discretionary Grant and the CARES Act Project School Emergency Response to Violence (Project SERV). The finance amounts received by local education agencies for these two grants were minimal or nonexistent, and therefore no longer necessitated the collection of these two data items on the survey.

The education finance data collected and processed by the Census Bureau are an essential component of the agency's state and local government finance collection and provide unique products for users of education finance data.

The Bureau of Economic Analysis (BEA) uses data from the survey to develop figures for the Gross Domestic Product (GDP). F–33 data items specifically contribute to the estimates for National Income and Product Accounts (NIPA), Input-Output accounts (I–O), and gross domestic investments. BEA also uses the data to assess other public fiscal spending trends and events.

The Census Bureau's Government Finances program has disseminated comprehensive and comparable public fiscal data since 1902. School finance data, which comprised 35 percent of all local government spending in 2019, are currently incorporated into the local government statistics reported on the Annual Surveys of State and Local Government Finances. The report contains benchmark statistics on public revenue, expenditure, debt, and assets. They are widely used by economists, legislators, social and political scientists, and government administrators.

The Census Bureau makes available detailed files for all school systems from its internet website, *https://www.census.gov/programs-surveys/school-finances.html.* This website currently contains data files and statistical tables for the 1992 through 2019 fiscal year surveys. Historical files and publications prior to 1992 are also available upon request for data users engaged in longitudinal studies. In addition to numerous academic researchers who use F–33 products, staff receive inquiries from state government officials, legislatures, public policy analysts, local school officials, non-profit organizations, and various Federal agencies.

The NCES use these annual data as part of the Common Core of Data (CCD) program. The education finance data collected by the Census Bureau are the sole source of school district fiscal information for the CCD. NCES data users utilize electronic tools to search CCD databases for detailed fiscal and non-fiscal variables. Additionally, NCES uses F–33 education finance files to publish annual reports on the fiscal state of education.

Affected Public: State, Local, or Tribal government.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Sections 8(b), 161 and 182; Title 20 U.S.C., Sections 9543–44.

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

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0700.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–21191 Filed 9–28–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–66–2021]

Foreign-Trade Zone (FTZ) 84—Houston, Texas; Notification of Proposed Production Activity; Mitsubishi Logisnext Americas (Houston) Inc. (Forklifts/Work Trucks and Related Subassemblies/Kits), Houston, Texas

Mitsubishi Logisnext Americas (Houston) Inc. (formerly Mitsubishi Caterpillar Forklift America, Inc.) submitted a notification of proposed production activity to the FTZ Board (the Board) for its facility in Houston, Texas under FTZ 84. The notification conforming to the requirements of the Board's regulations (15 CFR 400.22) was received on September 10, 2021.

Pursuant to 15 CFR 400.14(b), FTZ production activity would be limited to the specific foreign-status materials/components described in the submitted notification (summarized below) and subsequently authorized by the Board. The benefits that may stem from conducting production activity under FTZ procedures are explained in the background section of the Board's website—accessible via *www.trade.gov/ftz.* The proposed materials/components would be added to the production authority that the Board previously approved for the operation, as reflected on the Board's website.

The proposed foreign-status materials and components include joint temperature and pressure sensors, forklift control terminals, pantographs, and USB sticks (duty-free). The request indicates that certain materials/components are subject to duties under Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is November 8, 2021.

A copy of the notification will be available for public inspection in the ''Online FTZ Information System'' section of the Board's website.

For further information, contact Diane Finver at *Diane.Finver@trade.gov.*

Dated: September 23, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–21123 Filed 9–28–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–65–2021]

Foreign-Trade Zone 27—Boston, Massachusetts; Application for Subzone; OBlockz LLC, Lawrence, Massachusetts

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Massachusetts Port Authority, grantee of FTZ 27, requesting subzone status for the facility of OBlockz LLC, located in Lawrence, Massachusetts. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on September 23, 2021.

The proposed subzone (14.49 acres) is located at 46 Stafford Street, Lawrence, Essex County. No authorization for production activity has been requested at this time. In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is November 8, 2021. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to November 23, 2021.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov.*

Dated: September 23, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–21122 Filed 9–28–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–878]

Glycine From Japan: Final Results of Antidumping Duty Administrative Review; 2018–2020

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

SUMMARY: The Department of Commerce (Commerce) determines that Yuki Gosei Kogyo Co., Ltd. (YGK) and Nagase & Co., Ltd. (Nagase) (collectively, YGK/Nagase), and Showa Denko K.K. (Showa Denko) made sales of glycine from Japan at less than normal value during the period of review (POR) October 31, 2018, through May 31, 2020.

DATES: Applicable September 29, 2021.

FOR FURTHER INFORMATION CONTACT: John Drury or James Hepburn, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0195 and (202) 482–1882, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 2021, Commerce published the *Preliminary Results.*[1] A summary of the events that occurred since Commerce published these *Preliminary Results,* as well as a full discussion of the issues raised by parties for these final results, may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.[2]

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/index.html.*

Scope of the Order

The merchandise covered by the *Order* is glycine at any purity level or grade. For a complete description of the scope, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the Issues and Decision Memorandum. For a list of the issues raised by parties, *see* the appendix to this notice.

Final Results of the Review

The final weighted-average dumping margins are as follows:

Producer/exporter	Weighted-average dumping margin (percent)
Yuki Gosei Kogyo Co., Ltd./ Nagase & Co., Ltd.[3]	27.21
Showa Denko K.K	86.22

Disclosure

We will disclose the calculations performed to parties in this proceeding within five days after the date of the public announcement of these final results of review, in accordance with 19 CFR 351.224(b).

Assessment Rate

Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries.[4]

To determine whether the duty assessment rates covering the period were *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), for each respondent we calculated importer (or customer)-specific *ad valorem* rates by aggregating the amount of dumping calculated for all U.S. sales to that importer or customer and dividing this amount by the total entered value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis,* and the respondent has reported reliable entered values, we applied the assessment rate to the entered value of the importer's/customer's entries during the POR, in accordance with 19 CFR 351.212(b)(1). Upon issuance of the final results of this administrative review, if any importer-specific assessment rates calculated in the final results are above *de minimis* (*i.e.,* at or above 0.5 percent), Commerce will issue instructions directly to CBP to assess antidumping duties on appropriate entries.

Commerce intends to issue appropriate assessment instructions directly 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 this notice for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of these final results, as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for respondents noted above will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the subject merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 53.66 percent, the all-others rate established in the less-than-fair-value investigation.[5] These cash deposit

[1] *See Glycine from Japan: Preliminary Results of Antidumping Administrative Review; 2018–2019,* 86 FR 36105 (July 8, 2022) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Glycine from Japan; 2018–2020,'' dated concurrently with this notice (Issues and Decision Memorandum).

[3] As explained in the *Preliminary Results,* based on the record information, Commerce determines that Nagase & Co., Ltd. and a non-selected respondent, Yuki Gosei Kogyo Co., Ltd., are affiliated within the meaning of section 771(33)(E) of the Act and we treated them as a single entity pursuant to 19 CFR 351.401(f). We have made no changes to this determination for these final results of review.

[4] In these final results, Commerce applied the assessment rate calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[5] *See Glycine from India and Japan: Amended Final Affirmative Antidumping Duty Determination and Antidumping Duty Orders,* 84 FR 29170 (June 21, 2019).

requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties did occur and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: September 22, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Issues
V. Recommendation

[FR Doc. 2021–21074 Filed 9–28–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB463

Endangered Species; File No. 24387

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS NEFSC (Responsible Party: Jon Hare, Ph.D.), 166 Water Street, Woods Hole, MA 02543–1026, has applied in due form for a permit to take Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempii*), green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), and leatherback (*Dermochelys coriacea*) sea turtles for purposes of scientific research.

DATES: Written or email comments must be received on or before October 29, 2021.

ADDRESSES: The applications and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting the appropriate File No. 24387 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 24387 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The above applicant requests a 5-year permit to conduct research on endangered and threatened sea turtles and Atlantic sturgeon in the U.S. Atlantic Exclusive Economic Zone from Massachusetts to Georgia, evaluating bycatch reduction of commercial fishing gear to mitigate sea turtle and sturgeon interactions in fisheries. Gear evaluated would be control and experimental tangle nets and trawl modifications. Once animals are captured and on the vessel, researchers would be authorized to handle and sample Atlantic sturgeon and sea turtles to measure, flipper tag (turtles), passive integrated transponder (PIT) tag, tissue (genetic) sample, photograph/video, and weigh before release. In addition to directed captures, animals that are legally captured in commercial fisheries would also be studied, conducting the same methods as listed above. Up to six sea turtles (all species combined) and 12 Atlantic sturgeon could be killed or seriously harmed due to capture over the life of the permit.

Dated: September 24, 2021.

Amy Sloan,

Acting Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–21183 Filed 9–28–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB427]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico

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

ACTION: Notice of re-issuance of letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, its implementing regulations, and NMFS' MMPA Regulations for Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico, notification is hereby given that a Letter of Authorization (LOA) has been re-issued to bp Exploration & Production Inc. (bp) for the take of marine mammals incidental to geophysical survey activity in the Gulf of Mexico.

DATES: The LOA is effective from September TBD, 2021, through April 19, 2026.

ADDRESSES: The LOA, LOA request, and supporting documentation are available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-oil-and-gas-industry-geophysical-survey-activity-gulf-mexico.* In case of problems accessing these documents, please call the contact listed below (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce 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.

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).

On January 19, 2021, we issued a final rule with regulations to govern the unintentional taking of marine mammals incidental to geophysical survey activities conducted by oil and gas industry operators, and those persons authorized to conduct activities on their behalf (collectively ''industry operators''), in Federal waters of the U.S. Gulf of Mexico (GOM) over the course of 5 years (86 FR 5322). The rule was based on our findings that the total taking from the specified activities over the five-year period will have a negligible impact on the affected species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of those species or stocks for subsistence uses. The rule became effective on April 19, 2021.

Our regulations at 50 CFR 217.180 *et seq.* allow for the issuance of LOAs to industry operators for the incidental take of marine mammals during geophysical survey activities and prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat (often referred to as mitigation), as well as requirements pertaining to the monitoring and reporting of such taking. Under 50 CFR 217.186(e), issuance of an LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations and a determination that the amount of take authorized under the LOA is of no more than small numbers.

NMFS issued an LOA to bp on July 13, 2021, for the take of marine mammals incidental to zero offset vertical seismic profile (VSP) geophysical surveys planned to occur over approximately 5 years within existing bp prospects and/or fields, including the Mad Dog, Na Kika, Thunder Horse, and Atlantis prospects located in the Green Canyon (Mad Dog and Atlantis), Mississippi Canyon (Na Kika and Thunder Horse), and Atwater Valley (Atlantis) areas of the central GOM (see Figure 1 in bp's application). Please see the **Federal Register** notice of issuance (86 FR 38018; July 19, 2021) for additional detail regarding the LOA and the survey activity.

Bp anticipates a total of 10 zero offset VSP surveys over the period of LOA effectiveness, with each survey expected to require 2 days (total of 20 days over the period of effectiveness). Bp anticipates that no more than two surveys would occur in any one year. However, due to the potential for unforeseen circumstances that would require a longer duration to accomplish the survey objectives, bp indicated it may conduct up to seven zero offset VSP survey days in any one year. Since issuance of the LOA, no survey work has occurred.

Consistent with the preamble to the final rule, the survey effort proposed by bp in its LOA request was used to develop LOA-specific take estimates based on the acoustic exposure modeling results described in the preamble (86 FR 5322, 5398; January 19, 2021). These results provided an estimate of four killer whale Level B harassment events per year of zero offset VSP survey effort (based on the maximum seven days per year). Consistent with other situations involving the low likelihood of encounter for rare species such as killer whales in the GOM, NMFS authorized take of a single group of average size, which is seven (representing a single potential encounter) (Maze-Foley and Mullin, 2006). NMFS has reconsidered the available information and determined that no killer whale take is likely, and has re-issued the LOA to reflect this.

As discussed in the final rule, the density models produced by Roberts *et al.* (2016) provide the best available scientific information regarding predicted density patterns of cetaceans in the U.S. GOM. The predictions represent the output of models derived from multi-year observations and associated environmental parameters that incorporate corrections for detection bias. However, in the case of killer whales—a rare GOM species—the model is informed by few data. The model's authors noted the expected non-uniform distribution of this rarely-encountered species and expressed that, due to the limited killer whale data available to inform the model (because they are rare), it ''should be viewed cautiously'' (Roberts *et al.,* 2015). Moreover, the rarity of encounter during seismic surveys is not likely to be the product of high bias on the probability of detection (86 FR 5322; January 19, 2021). In addition, killer whales typically occur only in particularly deep water, which is not where the bp survey activity will take place.

While this information is reflected through the density model informing the acoustic exposure modeling results, there is relatively high uncertainty associated with the model for this species, and the acoustic exposure modeling applies mean distribution data over areas where the species is in fact less likely to occur. Based on this, NMFS determined that the generic acoustic exposure modeling results for killer whales will generally result in estimated take numbers that are inconsistent with the assumptions made in the rule regarding expected killer whale take (86 FR 5322, 5403; January 19, 2021). In addition (as noted in the notice of issuance for the LOA (86 FR 38018; July 19, 2021)), differences

between available modeled survey geometries (*i.e.,* 2D, 3D NAZ, 3D WAZ, Coil) and the subject zero offset VSP surveys, and the fact that all available acoustic exposure modeling results assume use of a 72 element, 8,000 in^3 array (compared with the 6–12 element, 2,400 in^3 array planned for use by bp), mean that take estimate numbers for this particular survey based on the model are expected to be significantly conservative.

Taking these considerations together with the fact that the estimated annual killer whale take numbers based on the model are low (less than the average group size) and that the annual survey effort for this LOA is of very brief duration, we conclude that no take of killer whales is likely to occur. Therefore, NMFS has re-issued the LOA with no authorization for take of killer whales. Authorized take numbers represented in the original notice of issuance are unchanged for all other species (see Table 1 below), and the determination that the taking is of no more than small numbers of marine mammals provided in the notice of issuance (86 FR 38018; July 19, 2021) remains valid.

TABLE 1—TAKE ANALYSIS, ZERO OFFSET VSP LOA

Species	Annual authorized take [1]	Abundance [2]	Percent abundance
Sperm whale	198	2,207	9.0
Kogia spp	[3] 79	4,373	1.8
Beaked whales	1,120	3,768	29.7
Rough-toothed dolphin	134	4,853	2.8
Bottlenose dolphin	681	176,108	0.4
Clymene dolphin	449	11,895	3.8
Atlantic spotted dolphin	258	74,785	0.3
Pantropical spotted dolphin	2,310	102,361	2.3
Spinner dolphin	496	25,114	2.0
Striped dolphin	182	5,229	3.5
Fraser's dolphin	53	1,665	3.2
Risso's dolphin	128	3,764	3.4
Melon-headed whale	290	7,003	4.1
Pygmy killer whale	64	2,126	3.0
False killer whale	96	3,204	3.0
Killer whale	0	267	n/a
Short-finned pilot whale	77	1,981	3.9

[1] Scalar ratios were not applied in this case due to brief annual survey duration.
[2] Best abundance estimate. For most taxa, the best abundance estimate for purposes of comparison with take estimates is considered here to be the model-predicted abundance (Roberts *et al.,* 2016). For those taxa where a density surface model predicting abundance by month was produced, the maximum mean seasonal abundance was used. For those taxa where abundance is not predicted by month, only mean annual abundance is available. For the killer whale, the larger estimated SAR abundance estimate is used.
[3] Includes 2 annual takes by Level A harassment and 77 annual takes by Level B harassment.

Authorization

NMFS has determined that the level of taking for the LOA request is consistent with the findings made for the total taking allowable under the incidental take regulations and that the amount of take authorized under the LOA is of no more than small numbers. NMFS has re-issued the LOA to bp authorizing the take of marine mammals incidental to its zero offset VSP geophysical survey activity, for the reasons described above.

Dated: September 23, 2021.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–21107 Filed 9–28–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XG584

Request for Public Comment Regarding an Administrative Law Judge's Recommended Decision on a Proposed Waiver and Regulations Governing the Taking of Marine Mammals

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

ACTION: Notice; request for comments.

SUMMARY: NMFS has proposed to issue a waiver and regulations under the Marine Mammal Protection Act (MMPA) to allow the Makah Indian Tribe to take a limited number of Eastern North Pacific (ENP) gray whales for ceremonial and subsistence purposes. A hearing to consider the proposed waiver and regulations took place on November 14–21, 2019, in Seattle, Washington before Administrative Law Judge George J. Jordan. On September 23, 2021, Judge Jordan transmitted his recommended decision to NMFS along with the hearing transcript and other required documentation. As required by MMPA regulations, NMFS now requests public comment on the Judge's recommended decision.

DATES: Comments must be submitted in writing by October 19, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2019–0037, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/docket?D=NOAA-NMFS-2019-0037,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Attn: Grace Ferrara, NMFS West Coast Region, 7600 Sand Point Way NE, Seattle, WA 98115. Include the identifier ''NOAA–NMFS–2019–0037'' in the comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Jaclyn Taylor, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; *jaclyn.taylor@noaa.gov.*

SUPPLEMENTARY INFORMATION: On February 14, 2005, NMFS received a request from the Makah Indian Tribe for a waiver of the MMPA moratorium on the take of marine mammals to allow for take of ENP gray whales (*Eschrichtius robustus*). The Tribe requested that NMFS authorize a tribal hunt for ENP gray whales in the coastal portion of the Tribe's usual and accustomed fishing area for ceremonial and subsistence purposes and the making and sale of handicrafts. The MMPA imposes a general moratorium on the taking of marine mammals but authorizes the Secretary of Commerce to waive the moratorium and issue regulations governing the take if certain statutory criteria are met.

On April 5, 2019, NMFS published a Notice of Hearing and the associated proposed regulations in the **Federal Register** (84 FR 13639 and 84 FR 13604). Pursuant to an interagency agreement, a Coast Guard Administrative Law Judge was assigned to conduct the hearing and issue a recommended decision in this matter under the procedures set forth at 50 CFR part 228.

On November 14, 2019, Judge George J. Jordan (the presiding officer) commenced the hearing in this matter, which took place over 6 days. Six parties participated in the hearing, including NMFS. The hearing was publicly conducted and reported verbatim by an official reporter. All filings associated with the hearing, including a full transcript of the hearing, have been made available for public viewing and inspection at *https://www.uscg.mil/Resources/Administrative-Law-Judges/Decisions/ALJ-Decisions-2016/NOAA-Formal-Rulemaking-Makah-Tribe/.* Information pertaining to this hearing is also available at the NMFS website: *https://www.fisheries.noaa.gov/action/formal-rulemaking-proposed-mmpa-waiver-and-hunt-regulations-governing-gray-whale-hunts-makah.*

Consistent with the regulations governing this proceeding, at the close of the hearing Judge Jordan established a public comment period on the proposed waiver and regulations, including the opportunity to submit proposed findings and conclusions and written arguments and briefs. NMFS published notice of this public comment period in the **Federal Register** on January 29, 2020 (85 FR 5196). 50 CFR 228.19(b). That comment period ended on March 16, 2020 and the comments submitted are posted at the Federal e-Rulemaking Portal at *www.regulations.gov/docket?D=NOAA-NMFS-2019-0037.*

On September 23, 2021, the presiding officer transmitted his recommended decision to the NMFS Assistant Administrator for Fisheries, including (1) a statement containing a description of the history of the proceedings; (2) findings on the issues of fact with the reasons therefor; and (3) rulings on issues of law. The recommended decision is also posted on the NMFS website: *https://www.fisheries.noaa.gov/action/formal-rulemaking-proposed-mmpa-waiver-and-hunt-regulations-governing-gray-whale-hunts-makah.*

As required by our regulations at 50 CFR 228.20(c)–(d), NMFS provided copies of the presiding officer's recommended decision to the parties to the hearing and now announces a 20-day period for the parties and other interested persons to submit written comments on the presiding officer's recommended decision. Please note that the recommended decision is being made available for copying and review online only due to the ongoing COVID–19 pandemic. After considering these comments, the Assistant Administrator will issue a final decision on the proposed waiver and regulations. That decision may affirm, modify, or set aside, in whole or in part, the recommended findings, conclusions, and decision of the presiding officer. The Assistant Administrator may also remand the hearing record to the presiding officer for a fuller development of the record. 50 CFR 228.21.

Authority: 16 U.S.C. 1371 *et seq.*

Dated: September 24, 2021.

Samuel D. Rauch, III,

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

[FR Doc. 2021–21176 Filed 9–28–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB457]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Russian River Estuary Management Activities

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

ACTION: Notice; receipt of application for Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received a request from the Sonoma County Water Agency (SCWA) for authorization to take marine mammals incidental to conducting estuary management activities in the Russian River, CA, over the course of five years. Pursuant to regulations implementing the Marine Mammal Protection Act (MMPA), NMFS is announcing receipt of SCWA's request for the development and implementation of regulations governing the incidental taking of marine mammals. NMFS invites the public to provide information, suggestions, and comments on SCWA's application and request.

DATES: Comments and information must be received no later than October 29, 2021.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service and should be sent to *ITP.Laws@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record and will generally be posted online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-*

activities without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

Electronic copies of SCWA's application and separate monitoring plan may be obtained online at *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities.* In case of problems accessing these documents, please call the contact listed above.

Background

Sections 101(a)(5)(A) and (D) of the 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 September 2, 2021, NMFS received an adequate and complete application from SCWA requesting authorization for take of marine mammals incidental to Russian River estuary management activities in Sonoma County, California. The requested regulations would be valid for five years, from April 21, 2022, through April 20, 2027. The proposed action requires the use of heavy equipment (*e.g.,* bulldozer, excavator) and increased human presence, as well as the use of small boats. As a result, pinnipeds hauled out on the beach or at peripheral haul-outs in the estuary may exhibit behavioral responses that indicate incidental take by Level B harassment under the MMPA. Therefore, SCWA requests authorization to incidentally take marine mammals.

NMFS has previously issued incidental take regulations and a subsequent Letter of Authorization (LOA) to SCWA for take of marine mammals incidental to similar specified activities (82 FR 13765; March 15, 2017). Prior to issuing the 5-year LOA, NMFS issued multiple one-year incidental harassment authorizations (IHA) to SCWA, for take of marine mammals incidental to similar specified activities. Monitoring reports submitted to NMFS as a condition of previously-issued incidental take authorizations are available online at: *www.fisheries.noaa.gov/action/incidental-take-authorization-sonoma-county-water-agencys-estuary-management-activities.*

Specified Activities

SCWA plans to manage the naturally-formed barrier beach at the mouth of the Russian River in order to minimize potential for flooding adjacent to the estuary and to enhance habitat for juvenile salmonids, as well as to conduct biological and physical monitoring of the barrier beach and estuary. Flood control-related breaching of barrier beach at the mouth of the river may include artificial breaches, as well as construction and maintenance of a lagoon outlet channel. The latter activity, an alternative management technique conducted to mitigate impacts of flood control on rearing habitat for Endangered Species Act (ESA)-listed salmonids, occurs only from May 15 through October 15 (the ''lagoon management period''). Artificial breaching and monitoring activities may occur at any time during the period of validity of the proposed regulations.

Information Solicited

Interested persons may submit information, suggestions, and comments concerning SCWA's request (see **ADDRESSES**). NMFS will consider all information, suggestions, and comments related to the request during the development of proposed regulations governing the incidental taking of marine mammals by SCWA, if appropriate.

Dated: September 24, 2021.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–21144 Filed 9–28–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0099]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; ESEA Fiscal Waiver Requests

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before October 29, 2021.

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

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Todd Stephenson, 202–205–1645.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general

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

Title of Collection: ESEA Fiscal Waiver Requests.

OMB Control Number: 1810–0760.

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

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

Total Estimated Number of Annual Responses: 53.

Total Estimated Number of Annual Burden Hours: 53.

Abstract: Due to the extraordinary circumstances created by the COVID–19 pandemic and unprecedented obstacles students, educators, and schools faced during the 2020–2021 school year, the U.S. Department of Education (the Department) offered each State educational agency (SEA) the opportunity to request waivers that will afford additional fiscal flexibility for certain funds received under the Elementary and Secondary Education Act of 1965 (ESEA), pursuant to the Department's authority under section 8401 of the ESEA. Specifically, the Department offered a waiver for an SEA to be able to approve a local educational agency (LEA) to carry over more than 15 percent of its fiscal year (FY) 2020 Title I, Part A funds (*i.e.,* the Title I, Part A funds that will become carryover funds on October 1, 2021), even if the LEA has received a waiver from its SEA to exceed this limitation for its FY 2018 or FY 2019 Title I, Part A funds. Second, we also offered flexibility to each SEA to be able to extend for itself and its subgrantees the period of availability of FY 2019 funds for programs included in the State's consolidated State plan to allow additional time to obligate those funds. This extension request is for the Title I fiscal waiver template the Department created for grantees to request those waivers.

Dated: September 23, 2021.

Kate Mullan,

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

[FR Doc. 2021–21114 Filed 9–28–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0109]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Consolidated Annual Report (CAR) for the Carl D. Perkins Career and Technical Education Act of 2006

AGENCY: Office of Career, Technical, and Adult Education (OCTAE), Department of Education (ED).

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before October 29, 2021.

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

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Braden Goetz, (202) 245–7405.

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

Title of Collection: Consolidated Annual Report (CAR) for the Carl D. Perkins Career and Technical Education Act of 2006.

OMB Control Number: 1830–0569.

Type of Review: Revision of a currently approved collection.

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

Total Estimated Number of Annual Responses: 53.

Total Estimated Number of Annual Burden Hours: 12,632.

Abstract: This information collection is used by the U.S. Department of Education to gather annual performance and financial data from eligible agencies under the Carl D. Perkins Career and Technical Education Act of 2006 as amended by the Strengthening Career and Technical Education for the 21st Century Act (Pub. L. 115–224). We are proposing to revise the ICR to remove the option to report enrollment and performance data via the EDFacts system, amend the Fiscal Responsibility section of the Narrative Performance Report to collect additional data about subgrants and their recipients, and to make clarifying changes to some of the instructions.

Dated: September 23, 2021.

Kate Mullen,

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

[FR Doc. 2021–21106 Filed 9–28–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0079]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Required Proprietary Institution Certification Form

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before October 29, 2021.

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

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Karen Epps, (202) 453–6337.

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

Title of Collection: Required Proprietary Institution Certification Form.

OMB Control Number: 1840–0855.

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

Respondents/Affected Public: Private Sector.

Total Estimated Number of Annual Responses: 1,757.

Total Estimated Number of Annual Burden Hours: 879.

Abstract: The American Rescue Plan Act of 2021 provides funding for proprietary institutions of higher education, to be used solely to make financial aid grants directly to students, which may be used for any component of the student's cost of attendance or for emergency costs that arise due to the coronavirus, such as tuition, food, housing, health care (including mental health care) or child care. This collection includes required certifications that must be completed by proprietary institutions seeking funding under this statute.

Dated: September 23, 2021.

Kate Mullen,

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

[FR Doc. 2021–21082 Filed 9–28–21; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Proposed Emergency Agency Information Collection

AGENCY: Office of Management, Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) invites the public to comment on a proposed collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995.

DATES: Comments regarding this proposed information collection must be received on or before October 29, 2021. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Jason Taylor, Procurement Analyst, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–1615, or by email at *Jason.Taylor@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Jason Taylor, Procurement Analyst, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–1615, by email at *Jason.Taylor@hq.doe.gov* or by phone at (202) 287–1560.

SUPPLEMENTARY INFORMATION: Comments are requested on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. This information collection request contains:

(1) *OMB No.:* 1910–5191;

(2) *Information Collection Request Title:* Certification of Vaccination—Onsite Support Service Contractor Employees;

(3) *Type of Request:* Emergency Clearance;

(4) *Purpose:* This information is being requested, collected, and maintained in order to promote the safety of Federal buildings, the Federal workforce, and others on site at agency facilities consistent with the COVID–19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force and guidance from the Centers for Disease Control and Prevention and the Occupational Safety and Health Administration. Specifically, this information will be used by DOE staff charged with implementing and enforcing workplace safety protocols.

(5) *Annual Estimated Number of Respondents:* 15,000;

(6) *Annual Estimated Number of Total Responses:* 15,000;

(7) *Annual Estimated Number of Burden Hours:* 2,500;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* $145,475.

Statutory Authority: Executive Order 13991, Protecting the Federal Workforce

and Requiring Mask-Wearing (Jan. 20, 2021); Occupational Safety and Health Program for Federal Employees (Feb. 26, 1980); 5 U.S.C. chapters 11, and 79.; the COVID–19 Workplace Safety: Agency Model Safety Principles established by the Safer Federal Workforce Task Force, and guidance from Centers for Disease Control and Prevention and the Occupational Safety and Health Administration.

Signing Authority

This document of the Department of Energy was signed on September 23, 2021, by Ingrid Kolb, Director, Office of Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 23, 2021.

Treena V. Garrett,

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

[FR Doc. 2021–21099 Filed 9–28–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

President's Council of Advisors on Science and Technology (PCAST)

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an open meeting of the President's Council of Advisors on Science and Technology (PCAST). The Federal Advisory Committee Act (FACA) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, October 18, 2021; 12:00 p.m. to 4:45 p.m. ET. Tuesday, October 19, 2021; 12:00 p.m. to 2:10 p.m. ET.

ADDRESSES: Information to participate virtually can be found on the PCAST website closer to the meeting at: *www.whitehouse.gov/PCAST.*

FOR FURTHER INFORMATION CONTACT: Dr. Sarah Domnitz, Designated Federal Officer, PCAST, email: *PCAST@ostp.eop.gov* or telephone: (202) 881–6399.

SUPPLEMENTARY INFORMATION: PCAST is an advisory group of the nation's leading scientists and engineers, appointed by the President to augment the science and technology advice available to him from the White House, cabinet departments, and other Federal agencies. See the Executive Order at *whitehouse.gov.* PCAST is consulted on and provides analyses and recommendations concerning a wide range of issues where understanding of science, technology, and innovation may bear on the policy choices before the President. The Designated Federal Officer is Sarah Domnitz. Information about PCAST can be found at: *www.whitehouse.gov/PCAST.*

Tentative Agenda: PCAST will hear from invited speakers on and discuss various aspects of combatting and adapting to climate change, including ongoing work within individual federal agencies, implications for national security, and achieving net zero emissions by 2050. Additional information and the meeting agenda, including any changes that arise, will be posted on the PCAST website at: *www.whitehouse.gov/PCAST.*

Public Participation: The meeting is open to the public. It is the policy of the PCAST to accept written public comments no longer than 10 pages and to accommodate oral public comments whenever possible. The PCAST expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

The public comment period for this meeting will take place on October 19, 2021, at a time specified in the meeting agenda. This public comment period is designed only for substantive commentary on PCAST's work, not for business marketing purposes.

Oral Comments: To be considered for the public speaker list at the meeting, interested parties should register to speak at *PCAST@ostp.eop.gov,* no later than 12:00 p.m. Eastern Time on October 12, 2021. To accommodate as many speakers as possible, the time for public comments will be limited to two (2) minutes per person, with a total public comment period of up to 10 minutes. If more speakers register than there is space available on the agenda, PCAST will select speakers on a first-come, first-served basis from those who registered. Those not able to present oral comments may file written comments with the council.

Written Comments: Although written comments are accepted continuously, written comments should be submitted to *PCAST@ostp.eop.gov* no later than 12:00 p.m. Eastern Time on October 12, 2021, so that the comments may be made available to the PCAST members for their consideration prior to this meeting.

PCAST operates under the provisions of FACA, all public comments and/or presentations will be treated as public documents and will be made available for public inspection, including being posted on the PCAST website *www.whitehouse.gov/PCAST.*

Minutes: Minutes will be available within 45 days by emailing *PCAST@ostp.eop.gov.*

Signed in Washington, DC, on September 24, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021–21169 Filed 9–28–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ21–13–000]

Western Area Power Administration; Notice of Petition for Declaratory Order

Take notice that on September 17, 2021, pursuant to the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 35.28(e) and 18 CFR 385.207, the Western Area Power Administration (WAPA), submitted revisions to its non-jurisdictional Open Access Transmission Tariff (OATT) and petitions the Commission for a declaratory order finding that these modifications to WAPA's OATT substantially conform to, or are superior to, the Commission's pro forma OATT and that these WAPA modifications satisfy the requirements for reciprocity status.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Petitioner.

The Commission strongly encourages electronic filings of comments, protests

and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnline Support@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on October 18, 2021.

Dated: September 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–21157 Filed 9–28–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2912–000]

Drew Solar-CA, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Drew Solar-CA, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 13, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: September 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–21152 Filed 9–28–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–2911–000]

Drew Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Drew Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is October 13, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number

field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: September 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–21150 Filed 9–28–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15226–000]

City of North Little Rock; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On June 28, 2021, the City of North Little Rock filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the Toad Suck Ferry Lock & Dam Hydroelectric Project No. 15226–000 (Toad Suck Ferry Project, or project), a run-of-river project to be located at the existing U.S. Army Corps of Engineers' Toad Suck Ferry Lock and Dam in Faulkner County, Arkansas. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) An existing reservoir with a maximum water surface elevation of 265.3 feet mean sea level; (2) an existing, 1,450-foot-long lock and dam, including a 1,120-foot-long spillway section with 16, 60-foot-long by 27-foot-high tainter gates; (3) a new headrace intake channel; (4) a new concrete powerhouse housing one, 40-megawatt horizontal turbine-generator unit; (5) a new discharge penstock; (6) a new tailrace receiving flow from the penstock; (7) a new interconnection line to either the existing, 69 kilo-Volt (kV) Bigelow substation, or the existing, 115-kV Mayflower substation; and (8) appurtenant facilities.

Applicant Contact: Scott Springer, 1400 W Maryland Ave., North Little Rock, Arkansas, 72120; phone: (501) 372–0100.

FERC Contact: Navreet Deo; phone: (202) 502–6304; email: *navreet.deo@ferc.gov.*

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15226–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15226) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: September 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–21156 Filed 9–28–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2207–050]

Ahlstrom-Munksjo Specialty Solutions, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Capacity Amendment of License.

b. *Project No.:* 2207–050.

c. *Date Filed:* August 2, 2021, as supplemented on September 22, 2021.

d. *Applicant:* Ahlstrom-Munksjo Specialty Solutions, LLC.

e. *Name of Project:* Mosinee Hydroelectric Project.

f. *Location:* The project is located on the Wisconsin River, in the town of Mosinee, Marathon County, Wisconsin, and does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Andy Cychosz, Environmental Manager, 100 Main Street, Mosinee, WI 54455, (715) 692–3330, *Andy.Cychosz@Ahlstrom-Munksjo.com.*

i. *FERC Contact:* Chris Chaney, (202) 502–6778, *christopher.chaney@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of

any filing should include docket number P–2207–050. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, it must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee proposes to replace the Unit No. 1 runner with a runner of the same fixed-blade propeller design and outer diameter, and update the project's automation, including replacing the Unit No. 1 governor, installing a SCADA system, and installing video systems for remote monitoring. The proposal would increase the installed capacity of Unit No. 1 from 1,800 to 2,250 kilowatts (kW). The licensee is not proposing changes to the other two units, and no ground disturbing activity would occur. Under the proposed amendment, the project's authorized installed capacity would increase from 3,050 to 3,500 kW, and the total hydraulic capacity would increase from 2,250 to 2,720 cubic feet per second.

l. 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 FERC at *FERCOnline Support@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified deadline date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting, or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: September 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–21154 Filed 9–28–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1061–103]

Pacific Gas and Electric Company; Notice of Intent To Prepare an Environmental Assessment

On August 24, 2020, Pacific Gas and Electric Company filed an application for a major, new license for the 1.6 megawatts Phoenix Hydroelectric Project (FERC No. 1061). The existing project is located on the South Fork Stanislaus River and in the Tuolumne River Basin, in Tuolumne County, California. The project occupies 26.99 acres of federal land administered by the U.S. Forest Service and 0.59 acres administered by the Bureau of Land Management.

In accordance with the Commission's regulations, on July 2, 2021, Commission staff issued a notice that the project was ready for environmental analysis (REA Notice). Based on the information in the record, including comments filed on the REA Notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare a draft and final Environmental Assessment (EA) on the application to relicense the Phoenix Project.

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

The application will be processed according to the following schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues draft EA.	May 2022.
Comments on draft EA.	June 2022.
Commission issues final EA.	September 2022 [1].

Any questions regarding this notice may be directed to Jim Hastreiter at (503) 552–2760 or *james.hastreiter@ferc.gov.*

Dated: September 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–21155 Filed 9–28–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–2148–004.

Applicants: Lexington Chenoa Wind Farm LLC.

Description: Refund Report: Refund Report Under Docket ER20–2148–000 to be effective N/A.

Filed Date: 9/23/21.

Accession Number: 20210923–5041.

Comment Date: 5 p.m. ET 10/14/21.

[1] The Council on Environmental Quality's (CEQ) regulations under 40 CFR 1501.10(b)(1) require that EAs be completed within 1 year of the federal action agency's decision to prepare an EA. This notice establishes the Commission's intent to prepare a draft and final EA for the Phoenix Project. Therefore, in accordance with CEQ's regulations, the final EA must be issued within 1 year of the issuance date of this notice.

Docket Numbers: ER20–2446–004.
Applicants: Bitter Ridge Wind Farm, LLC.
Description: Refund Report: Refund Report Under Docket ER20–2446–000 to be effective N/A.
Filed Date: 9/23/21.
Accession Number: 20210923–5042.
Comment Date: 5 p.m. ET 10/14/21.

Docket Numbers: ER20–2503–003.
Applicants: Paulding Wind Farm IV LLC.
Description: Refund Report: Refund Report Under Docket ER20–2503 to be effective N/A.
Filed Date: 9/23/21.
Accession Number: 20210923–5051.
Comment Date: 5 p.m. ET 10/14/21.

Docket Numbers: ER20–2953–003.
Applicants: Lone Tree Wind, LLC.
Description: Refund Report: Refund Report Under Docket ER20–2953 to be effective N/A.
Filed Date: 9/23/21.
Accession Number: 20210923–5053.
Comment Date: 5 p.m. ET 10/14/21.

Docket Numbers: ER21–2570–001.
Applicants: TC Energy Marketing Inc.
Description: Tariff Amendment: Amended MBR Tariff and Application (ER21–2570–) to be effective 9/30/2021.
Filed Date: 9/23/21.
Accession Number: 20210923–5097.
Comment Date: 5 p.m. ET 10/14/21.

Docket Numbers: ER21–2925–000.
Applicants: Grand Ridge Energy LLC.
Description: Initial rate filing: Filing of Reactive Power Rate Schedule to be effective 11/1/2021.
Filed Date: 9/23/21.
Accession Number: 20210923–5111.
Comment Date: 5 p.m. ET 10/14/21.

Docket Numbers: ER21–2926–000.
Applicants: Caddo Wind, LLC.
Description: § 205(d) Rate Filing: Supplement to Application for Market-Based Rate Authorization to be effective 10/11/2021.
Filed Date: 9/23/21.
Accession Number: 20210923–5113.
Comment Date: 5 p.m. ET 10/14/21.

Docket Numbers: ER21–2927–000.
Applicants: Optimum Power Investments, LLC.
Description: Tariff Amendment: Notice of Cancellation to be effective 9/30/2021.
Filed Date: 9/23/21.
Accession Number: 20210923–5118.
Comment Date: 5 p.m. ET 10/14/21.

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 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 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–21149 Filed 9–28–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–495–000]

Mojave Pipeline Company, L.L.C.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on September 13, 2021, Mojave Pipeline Company, L.L.C. (Mojave), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in the above referenced docket a prior notice pursuant to Sections 157.203, 157.205, and 157.211 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act and the blanket certificates issued to Mojave by the Commission in Docket Nos. CP89–1–000 and CP89–2–000 seeking for authorization to construct a delivery point located in Kern County, California. Mojave states that delivery point will permit the transportation and delivery of natural gas to CalPortland Company. Mojave states that the delivery meter facility will be designed and constructed to permit delivery flows of up to 17,000 Mcf per day and that the estimated cost of the proposed delivery station is $391,696. The proposed delivery point will serve as a bypass of the existing service of Pacific Gas and Electric Company, the local distribution company, 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 Francisco Tarin, Director, Regulatory, Mojave Pipeline Company, L.L.C., P.O. Box 1087, Colorado Springs, Colorado 80944, by telephone (719) 667–7517, or by email at *Francisco_Tarin@kindermorgan.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 22, 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,[1] any person [2] 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

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

regulations,[3] and must be submitted by the protest deadline, which is November 22, 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[4] and the regulations under the NGA[5] by the intervention deadline for the project, which is November 22, 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 22, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–495–000 in your submission. The Commission encourages electronic filing of submissions.

(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[6]

(1) You can file a paper copy of your submission. Your submission must reference the Project docket number CP21–495–000.

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

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

The Commission encourages electronic filing of 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: *Francisco_Tarin@kindermorgan.com* or P.O. Box 1087, Colorado Springs, Colorado 80944. 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 23, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–21151 Filed 9–28–21; 8:45 am]

BILLING CODE 6717–01–P

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

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

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9070–01–OAR]

Acid Rain Program: Excess Emissions Penalty Inflation Adjustments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of annual adjustment factors.

SUMMARY: The Acid Rain Program requires sources that do not meet their annual Acid Rain emissions limitations for sulfur dioxide (SO_2) or nitrogen oxides (NO_X) to pay inflation-adjusted excess emissions penalties. This document provides notice of the annual adjustment factors used to calculate excess emissions penalties for compliance years 2021 and 2022.

FOR FURTHER INFORMATION CONTACT: Jason Kuhns at (202) 564–3236 or *kuhns.jason@epa.gov.*

SUPPLEMENTARY INFORMATION: The Acid Rain Program limits SO_2 and NO_X emissions from fossil fuel-fired electricity generating units. All affected sources must hold allowances sufficient to cover their annual SO_2 mass emissions, and certain coal-fired units must meet annual average NO_X emission rate limits. Under 40 CFR 77.6, any source that does not meet these requirements must pay an excess

emissions penalty without demand to the EPA Administrator. The automatic penalty is computed as the number of excess tons of SO_2 or NO_X emitted times a per-ton penalty amount of $2,000 times an annual adjustment factor, which must be published in the **Federal Register**.

The annual adjustment factor used to compute excess emissions penalties for compliance year 2021 is 2.086, resulting in an automatic penalty amount of $4,172 per excess ton of SO_2 or NO_X emitted in 2021. In accordance with 40 CFR 77.6(b) and 72.2, this annual adjustment factor is determined from values of the Consumer Price Index for All Urban Consumers (CPI–U) for August 1989 and August 2020.

The annual adjustment factor used to compute excess emissions penalties for compliance year 2022 is 2.196, resulting in an automatic penalty amount of $4,392 per excess ton of SO_2 or NO_X emitted in 2022. This annual adjustment factor is determined from values of the CPI–U for August 1989 and August 2021.

Rona Birnbaum,

Acting Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 2021–21186 Filed 9–28–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2019–0292; FRL–8752–01–OA]

Proposed Information Collection Request; Comment Request; Estimating Benefits of Surface Water Quality Improvements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Estimating Benefits of Surface Water Quality Improvements'' (EPA ICR No. 2588.01, OMB Control No. 2080–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a request for approval of a new collection. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before November 29, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OA–2019–0292, 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.

FOR FURTHER INFORMATION CONTACT: Chris Moore, OA/OP/NCEE, 1200 Pennsylvania Ave. NW, Washington, DC 20004; telephone number 202–566–2348; fax number: 202–566–2448; email address: *moore.chris@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 *www.regulations.gov* or in person at the EPA Docket Center, WJC West, 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.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Researchers and analysts in EPA's Office of Research and Development (ORD), Office of Water (OW), and National Center for Environmental Economics (NCEE) are collaborating to improve EPA's ability to perform benefit cost analysis on changes in surface water quality (lakes, rivers, and streams). We are requesting approval to conduct a survey that will provide data critical to that effort.

A number of non-market valuation methods can be used to estimate the economic benefits of improving environmental quality, but they often require more time and resources than federal agencies have to complete the regulatory impact analysis. Benefit transfer can provide reasonably accurate estimates of economic benefits under certain conditions with fewer resources and far less time. Federal agencies rely on benefit transfer often when analyzing the economic impacts of environmental regulation. In conducting benefit cost analyses of surface water regulations, however, it has become apparent that there is a lack of data on some features of policy analysis that have forced analysts to make assumptions about the relationships between a number of factors. This information collection is necessary to provide insight on those relationships and improve the EPA's and other federal agencies' ability to perform benefit transfer in regulatory analysis.

Analysts in the Office of Policy, the Office of Water, and the Office of Research and Development have begun work on an integrated hydrological and economic model that will be capable of estimating benefits for a wide range of surface water regulations. The data collected with this survey will inform that effort. Analysts elsewhere in the EPA and other federal agencies may also be able to use the results of this study to improve benefit transfer in other applications as well.

The survey will be administered electronically via the internet. An internet-based survey mode provides several advantages in efficiency and accuracy over other collection modes. It is also necessary to meet several of our research objectives described in the ICR Supporting Statement. EPA is requesting comment on two alternative approaches to sample recruitment: A probability-based internet panel, and a mail invitation to the internet survey. Some sections of the draft Supporting Statement cannot be completed until a recruitment mode has been chosen. Where possible, the draft Supporting

Statement provides details on both approaches. EPA will consider public comments, expert opinion, and peer reviewed literature before choosing a recruitment mode. The final Supporting Statement will reflect the chosen mode, present all details of that approach, and be submitted for public comment.

Participation in the survey will be voluntary and the identity of the participants will be kept confidential.

Form Numbers: None.

Respondents/affected entities: Eligible respondents for this survey will be U.S. civilian, non-institutionalized individuals, age 18 years and older.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 6,120.

Frequency of response: One-time collection.

Total estimated burden: 2,040 hours.

Total estimated cost: Total estimated burden and cost for Agency $670,391.

Changes in Estimates: This is a new collection. The survey is a one-time data collection activity.

Al McGartland,

Office Director, National Center for Environmental Economics, Office of Policy.

[FR Doc. 2021–21081 Filed 9–28–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2008–0701; FRL–8796–01–OA]

Proposed Information Collection Request; Comment Request; Focus Groups as Used by EPA for Economics Projects (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Focus Groups as used by EPA for Economics Projects (Renewal)'' (EPA ICR No. 2205.22, OMB Control No. 2090–0028) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed renewal of the ICR, which is currently approved through March 31, 2022. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before November 29, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OA–2008–0701, online using *www.regulations.gov* (our preferred method), by email to *oei.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Nathalie Simon, Office of Policy, (MC 1809T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–2347; fax number: 202–566–2363; email address: *simon.nathalie@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 *www.regulations.gov* or in person at the EPA Docket Center, WJC West, 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.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: EPA is seeking renewal of a generic information collection request (ICR) for the conduct of focus groups and protocol interviews (hereafter jointly referred to as focus groups) related to economics projects. Over the next three years, the Agency anticipates engaging in survey development efforts associated with a variety of economics projects including those related to valuation of water quality benefits, health risk reductions, coastal adaptation and restoration, to name a few. Focus groups are an important part of any survey development process, allowing researchers to directly gauge what specific issues are important to the public and providing a means for explicitly testing draft survey materials. Through these focus groups, the Agency will be able to gain a more in-depth understanding of the public's attitudes, beliefs, motivations and feelings regarding specific issues and will provide valuable information regarding the quality of draft survey instruments.

The information collected in the focus groups will be used primarily to develop and improve economics-related surveys. To the extent that these surveys are ultimately approved and successfully administered, they will serve to expand the Agencies understanding of benefits and costs of a variety of actions and could provide the means to quantitatively assess the effects of others. Participation in the focus groups will be voluntary and the identity of the participants will be kept confidential.

Form Numbers: None.

Respondents/affected entities: Individuals.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 1,008 (total).

Frequency of response: Once.

Total estimated burden: 2,592 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $0 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in the total estimated respondent

burden compared with the ICR currently approved by OMB.

Albert McGartland,

Office Director, National Center for Environmental Economics, Office of Policy.

[FR Doc. 2021–21189 Filed 9–28–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreement to the Secretary by email at *Secretary@fmc.gov,* or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreement are available through the Commission's website (*www.fmc.gov*) or by contacting the Office of Agreements at (202) 523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012108–008.

Title: The World Liner Data Agreement.

Parties: ANL Singapore Pte Ltd.; APL Co. Pte. Ltd.; CMA CGM S.A.; COSCO Shipping Lines Co., Ltd.; Evergreen Line Joint Service Agreement; Hamburg-Sud; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Independent Container Line Ltd.; Maersk Line A/S; Mediterranean Shipping Company S.A.; Nile Dutch Africa Line B.V.; Orient Overseas Container Line Ltd.; and Zim Integrated Shipping Services Limited.

Filing Party: Wayne Rohde, Esq.; Cozen O'Connor.

Synopsis: The amendment would add Westwood Shipping Lines as a party to the agreement. It would also update the name of Maersk A/S, the name and address of HMM Company Limited, and the address of CMA CGM.

Proposed Effective Date: 11/1/2021.

Location: https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/362.

Dated: September 24, 2021.

Rachel E. Dickon,

Secretary.

[FR Doc. 2021–21174 Filed 9–28–21; 8:45 am]

BILLING CODE 6730–02–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than October 29, 2021.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *M&C Bancshares, Inc., McRae-Helena, Georgia;* to become a bank holding company by acquiring The Merchants & Citizens Bank, also of McRae-Helena, Georgia.

Board of Governors of the Federal Reserve System, September 24, 2021.

Margaret M. Shanks,

Deputy Secretary of the Board.

[FR Doc. 2021–21173 Filed 9–28–21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than October 14, 2021.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Ralph C. Stayer, Naples, Florida; Kimberly L. Johnson, Naples, Florida, and Lisa Reilly Payton, Phoenix, Arizona, as co-trustees of the RFS 2010 Irrevocable Trust fbo Ralph C. Stayer and the Shelly A. Stayer 2010 Childrens Trust, both of Fond du Lac, Wisconsin; Brittany B. Wagner, Brooke B. Stayer-Wagner, Jonathan B. Wagner, all of Mequon, Wisconsin; and Michael Stayer-Suprick, Sheboygan, Wisconsin;* to join the Stayer Family Control Group, a group acting in concert, to retain voting shares of Hometown Bancorp, LTD, and indirectly retain voting shares of Hometown Bank, both of Fond du Lac, Wisconsin.

Board of Governors of the Federal Reserve System, September 23, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2021–21100 Filed 9–28–21; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than October 14, 2021.

A. Federal Reserve Bank of Dallas (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Rita Hancock, individually, and as trustee of the John W. Hancock, Jr. SB Trust, both of El Campo, Texas;* to acquire voting shares of Louise Bancshares, Inc., and thereby indirectly acquire voting shares of The First State Bank, both of Louise, Texas.

Board of Governors of the Federal Reserve System, September 24, 2021.

Margaret M. Shanks,

Deputy Secretary of the Board.

[FR Doc. 2021–21167 Filed 9–28–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; The Study of Disability Services Coordinators and Inclusion in Head Start (New Collection)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: This is a primary data collection request for the Study of Disability Services Coordinators and Inclusion in Head Start (New Collection). The study aims to provide a nationally representative picture of the Early Head Start (EHS) and Head Start (HS) Disability Services Coordinator (DSC) workforce, as well as services provided to children with disabilities and their families within these programs and how EHS/HS collaborates with services in the community, including health providers, Local Education Agencies, and Part C. This is the first study of the HS/EHS DSC workforce and will contain three Phases of data collection using surveys and qualitative interviews.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You can also obtain copies of the proposed collection of information by emailing *OPREinfocollection@acf.hhs.gov.* All emailed requests should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Study of DSCs and Inclusion in Head Start will support ACF in better understanding the implementation of EHS/HS policies and practices for delivering disability services. This study aims to present a nationally representative description of the characteristics and work of DSCs and related staff in EHS/HS programs and how EHS/HS serves children with disabilities and their families. The study will not allow for statistical generalization beyond EHS/HS and their service populations.

The study will report on inclusive practices, staffing, professional development, and collaboration with local education agencies, early intervention programs, health providers, and other community stakeholders who serve young children with disabilities and their families.

ACF aims to address the research questions through a national survey of EHS/HS program directors (PhasePhase 1), a survey with DSCs identified by the directors (Phase 2), and a one-time qualitative interview with a subset of DSCs who respond to the web-based survey (Phase 3). There are no data regarding the population of the DSC workforce and subgroups, preventing the team from setting a frame for selecting a nationally representative sample. Given the lack of administrative data and contact information about DSCs, it is essential that a national survey of EHS/HS directors (Phase 1) be conducted to identify DSC respondents. A purposive sample of DSCs who completed the Phase 2 survey will be asked to participate in a semi-structured, qualitative interview.

Data collection activities will occur over 15 months; the team anticipates January 2022 through March 2023. The proposed data collection will begin shortly after OMB approval. The three Phases of data collection will occur concurrently—the Phase 1 survey will be fielded for approximately 8 months; the Phase 2 survey will be fielded for approximately 12 months; and the Phase 3 interviews will be conducted over 4 months.

Respondents: Head Start Directors, Head Start Disability Service Coordinators.

Annual Burden Estimates

Values in the burden table have been updated since the 60 day **Federal Register** Notice regarding this study. Accuracy of the table values has been improved by review of response rates from studies with similar designs. In addition, the table has been informed by consultation with community advisors.

Instrument	Mode	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Average burden per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Survey of EHS/HS Program Directors (Phase 1).	Web	1,259	1	0.42	529	265
	Phone	5	1	1.0	5	3
Survey of EHS/HS DSCs (Phase 2)	Web	1,891	1	0.75	1,418	709
	Phone	5	1	1.0	5	3
DSC Interview (Phase 3)	Phone	36	1	0.75	27	14

Estimated Total Annual Burden: 994.

Authority: 42 U.S.C. 9835; 42 U.S.C. 9844.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–21166 Filed 9–28–21; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Child and Family Services Reviews (OMB #0970–0214)

AGENCY: Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) is requesting reinstatement of the activities associated with the *Child and Family Services Reviews* (CFSR) collection (OMB #0970–0214). Revisions have been made to the forms to clarify instructions and incorporate new guidance. The activities associated with the Title IV–E Foster Care Eligibility Reviews and Anti-Discrimination Enforcement Corrective Action Plans were removed from this collection.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION:

Description: The following activities are associated with the CFSR collection: CFSR Statewide Assessment, CFSR On-site Review, and the CFSR Program Improvement Plan. The collection of information for review of state child and family services programs (45 CFR 1355.33(b), 1355.33(c) and 1355.35(a)) is to determine whether such programs are in substantial conformity with state plan requirements under Titles IV–B and IV–E of the Social Security Act (the Act) and is authorized by section 1123(a) [42 U.S.C. 1320a–2a] of the Act. The CFSR looks at the outcomes related to safety, permanency, and well-being of children served by the child welfare system and at seven systemic factors that support the outcomes. The information collection is needed to monitor state plan requirements under titles IV–B and IV–E of the Act and is required by federal statute. The resultant information will allow ACF to determine if states are in compliance with state plan requirements and are achieving desired outcomes for children and families. If necessary, ACF will require states revise applicable statutes, rules, policies and procedures, and provide proper training to staff, through the development and implementation of program improvement plans. The CFSR reviews not only address conformity with state plan requirements but also assist states in enhancing the capacities to serve children and families. In computing the number of burden hours for this information collection, ACF based the annual burden estimates on ACF's and states' experiences in conducting reviews and developing program improvement plans.

Respondents: State Title IV–E Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Total number of respondents	Total number of responses per respondent	Average burden hours per response	Total burden hours	Annual burden hours
45 CFR 1355.33(b) Statewide Assessment	39	1	120	4,680	1,560
45 CFR 1355.33(c) On-site Review Instrument (OSRI) Stakeholder Interview Guide (SIG)	39	1	1,186	46,254	15,418
45 CFR 1355.35(a) Program Improvement Plan (PIP)	39	1	300	11,700	3,900

Estimated Total Annual Burden Hours: 20,878.

Authority: 42 U.S.C. 1320a–2a.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–21139 Filed 9–28–21; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–D–0872]

Electronic Submission Template for Medical Device 510(k) Submissions; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of the draft guidance entitled ''Electronic Submission Template for Medical Device 510(k) Submissions.'' FDA is issuing this draft guidance to introduce submitters of premarket notification (510(k)) submissions to the Center for Devices and Radiological Health and Center for Biologics Evaluation and Research to the current resources and associated content developed to support 510(k) electronic submissions to FDA. This draft guidance, when finalized, is intended to represent one of several steps in meeting FDA's commitment to the development of electronic submission templates to serve as guided submission preparation tools for industry to improve submission consistency and enhance efficiency in the review process. This draft guidance is not final nor is it in effect at this time.

DATES: Submit either electronic or written comments on the draft guidance by November 29, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–D–0872 for ''Electronic Submission Template for Medical Device 510(k) Submissions.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see § 10.115(g)(5) (21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the draft guidance document entitled ''Electronic Submission Template for Medical Device 510(k) Submissions'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002; or Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Rebecca Nipper, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1540, Silver Spring, MD 20993–0002, 301–796–6527; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Section 745A(b) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 379k–1(b)), amended by section 207 of the FDA Reauthorization Act of 2017 (Pub. L. 115–52), requires that pre-submissions and submissions for devices under section 510(k), 513(f)(2)(A), 515(c), 515(d), 515(f), 520(g), 520(m), or 564 of the FD&C Act

(21 U.S.C. 360(k), 360c(f)(2)(A), 360e(c), 360e(d), 360e(f), 360j(g), 360j(m), or 360bbb–3) or section 351 of the Public Health Service Act (42 U.S.C. 262) and any supplements to such pre-submissions or submissions, including appeals of those submissions, be submitted in electronic format specified by FDA beginning on such date as specified by FDA in final guidance. It also mandates that FDA issue a draft guidance not later than October 1, 2019, providing for further standards for the submission by electronic format, a timetable for establishment of these further standards, and criteria for waivers of and exemptions from the requirements.

In addition, in the Medical Device User Fee Amendments of 2017 (MDUFA IV) Commitment Letter [1] from the Secretary of Health and Human Services to Congress, FDA committed to developing ''electronic submission templates that will serve as guided submission preparation tools for industry to improve submission consistency and enhance efficiency in the review process'' and ''by FY [fiscal year] 2020, the Agency will issue a draft guidance document on the use of the electronic submission templates.'' In addition, the Commitment Letter states that ''[n]o later than 12 months after the close of the public comment period, the Agency will issue a final guidance.'' FDA's guidance document ''Providing Regulatory Submissions for Medical Devices in Electronic Format—Submissions Under Section 745A(b) of the Federal Food, Drug, and Cosmetic Act'' issued July 15, 2020 (the ''parent guidance'') [2] was intended to satisfy the final guidance documents referenced in section 745A(b)(3) of the FD&C Act and the MDUFA IV Commitment Letter. A notice of availability of the parent guidance appeared in the **Federal Register** of July 15, 2020 (85 FR 42864).

In the parent guidance, the Agency concluded that it is not feasible to describe and implement the electronic format(s) that would apply to all the submissions covered by section 745A(b) of the FD&C Act in one guidance document. Accordingly, the parent guidance describes how FDA interprets and plans to implement the requirements of section 745A(b)(3) of the FD&C Act, while individual guidances will be developed to specify the formats for specific submissions and corresponding timetables for implementation. The current draft guidance ''Electronic Submission Template for Medical Device 510(k) Submissions'' is the first of these individual guidances that, when finalized, will specify the format for 510(k) submissions and a corresponding timetable for implementation.

In section 745A(b) of the FD&C Act, Congress granted explicit statutory authorization to FDA to specify in guidance the statutory requirement for electronic submissions solely in electronic format by providing standards, a timetable, and criteria for waivers and exemptions. To the extent that this draft guidance provides such requirements under section 745A(b)(3) of the FD&C Act (*i.e.,* standards, timetable, criteria for waivers of and exemptions), indicated by the use of the mandatory words, such as must or required, this document is not subject to the usual restrictions in FDA's good guidance practice regulations, such as the requirement that guidances not establish legally enforceable responsibilities. (See § 10.115(d).)

To the extent that this draft guidance describes recommendations that are not standards, timetable, criteria for waivers of, or exemptions under section 745A(b)(3) of the FD&C Act, it is being issued in accordance with FDA's good guidance practices regulation (§ 10.115). This draft guidance, when finalized, will represent the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This draft guidance, when finalized, will contain both binding and nonbinding provisions.

II. Electronic Access

Persons interested in obtaining a copy of the draft guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances.* Persons unable to download an electronic copy of ''Electronic Submission Template for Medical Device 510(k) Submissions'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number 19006 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations, guidance, and forms have been approved by OMB as listed in the following table:

21 CFR part	Topic	OMB control No.
801 and 809	Medical Device Labeling Regulations	0910–0485
807, subpart E, including forms FDA 4062 ''Electronic Submission Template and Resource (eSTAR)'' and FDA 4078 ''Electronic Submission Template and Resource (eSTAR)'' (for In Vitro Diagnostic (IVD) 510(k) submissions).	Premarket Notification Submission, including submissions via eSTAR.	0910–0120

[1] *https://www.fda.gov/media/102699/download.*

[2] ''Providing Regulatory Submissions for Medical Devices in Electronic Format—Submissions Under Section 745A(b) of the Federal Food, Drug, and Cosmetic Act, Guidance for Industry and Food and Drug Administration Staff'' available at *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/providing-regulatory-submissions-medical-devices-electronic-format-submissions-under-section-745ab.*

IV. Other Issues for Consideration

The Agency invites comments on the ''Electronic Submission Template for Medical Device 510(k) Submissions'' draft guidance, in general, and on the following questions, in particular:

- Is a minimum of 1 year an adequate amount of time to transition to submissions solely in electronic format for 510(k) submissions using the eSTAR template?
- If a minimum of 1 year is not adequate, how much time would be necessary for you to transition to use of eSTAR as the required format for 510(k) submission?

Dated: September 22, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–21135 Filed 9–28–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2021–D–0544]

Nontuberculous Mycobacterial Pulmonary Disease Caused by Mycobacterium avium Complex: Developing Drugs for Treatment; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Nontuberculous Mycobacterial Pulmonary Disease Caused by *Mycobacterium avium* Complex: Developing Drugs for Treatment.'' The purpose of this draft guidance is to assist sponsors in the clinical development of drugs for the treatment of nontuberculous mycobacterial pulmonary disease (NTM–PD) caused by *Mycobacterium avium* complex (MAC).

DATES: Submit either electronic or written comments on the draft guidance by November 29, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked, and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2021–D–0544 for ''Nontuberculous Mycobacterial Pulmonary Disease Caused by *Mycobacterium avium* Complex: Developing Drugs for Treatment.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Mukil Natarajan, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Avenue, Bldg. 22, Rm. 6393, Silver Spring, MD 20993, 240–402–4626.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Nontuberculous Mycobacterial Pulmonary Disease Caused by *Mycobacterium avium* Complex: Developing Drugs for Treatment.''

The purpose of this draft guidance is to assist sponsors in the clinical development of drugs for the treatment of NTM–PD caused by MAC. Specifically, this guidance addresses FDA's current thinking regarding clinical trial design issues, choice of study population, and endpoints for the treatment of naïve and refractory NTM–PD caused by MAC.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Nontuberculous Mycobacterial Pulmonary Disease Caused by *Mycobacterium avium* Complex: Developing Drugs for Treatment.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information for submissions of investigational new drug applications, new drug applications and biologic license applications in 21 CFR part 312, part 314 and part 601 have been approved under OMB control numbers 0910–0014, 0910–0001, and 0910–0338, respectively.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: September 23, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–21115 Filed 9–28–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases B Research Study Section.

Date: October 13–14, 2021.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Ellen S. Buczko, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F30, Rockville, MD 20852, 301–451–2676, *ebuczko1@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 23, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21131 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Tropical Medicine Research Centers Coordinating Center (U01 Clinical Trial Not Allowed).

Date: October 14, 2021.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Eleazar Cohen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G62A, Rockville, MD 20852, (240) 669–5081, *ecohen@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 23, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21129 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Clinical Trial, Large Scale Epidemiology and Secondary Data Analysis Applications.

Date: October 20, 2021.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, National Institute of Health, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jeanette M. Hosseini, Ph.D., Scientific Review Officer, National Eye Institute, National Institute of Health, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20892, 301–451–2020, *jeanetteh@mail.nih.gov.*

Name of Committee: National Eye Institute Special Emphasis Panel; NEI Mentored Clinical Scientist Research Career Development Award (K08 and K23).

Date: October 21, 2021.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Eye Institute, National Institute of Health, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jennifer C. Schiltz, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Eye Institute, National Institute of Health, 6700B Rockledge Drive, Suite 3400, Bethesda, MD 20892, 240–276–5864, *jennifer.schiltz@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: September 23, 2021.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21092 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Patient-Oriented Research Study Section.

Date: November 4–5, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Stephanie Johnson Webb, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–V, Bethesda, MD 20892, (301) 827–7992, *stephanie.webb@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 23, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21124 Filed 9–28–21; 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 Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Leveraging Artificial Intelligence (AI) Tools for Substance Use Disorders (SUD) Drug Discovery and Development.

Date: November 4, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jenny Raye Browning, Ph.D., Scientific Review Officer, Scientific Review Branch Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *jenny.browning@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Avant-Garde Award Program and Avenir Award Program for HIV/AIDS and Substance Use Disorder Research (DP1, DP2, Clinical Trial Optional).

Date: November 30–December 1, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Yvonne Owens Ferguson, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 402–7371, *yvonne.ferguson@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 23, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21130 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Heart, Lung, and Blood Initial Review Group; NHLBI Mentored Transition to Independence Study Section.

Date: November 18–19, 2021.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Giuseppe Pintucci, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 205–H, Bethesda, MD 20892, (301) 827–7969, *Pintuccig@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 23, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21126 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Resource Related Research Projects (R24 Clinical Trial Not Allowed).

Date: October 20, 2021.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G50, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Louis A. Rosenthal, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G50, Rockville, MD 20852, (240) 669–5070, *rosenthalla@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 23, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21134 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Microbiology, Infectious Diseases and AIDS Initial Review Group; Microbiology and Infectious Diseases Research Committee Microbiology and Infectious Diseases Research Study Section (MID).

Date: October 20–21, 2021.

Time: 10:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G51, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Annie Walker-Abbey, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3E70A, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F21, Bethesda, MD 20892, (240) 627–3390, *aabbey@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 23, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21132 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Early Phase Clinical Trials (R61, R33).

Date: November 2, 2021.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Manoj Kumar Valiyaveettil, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–R, Bethesda, MD 20817, (301) 402–1616, *manoj.valiyaveettil@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Lung Transplant Consortium—DCC.

Date: November 3, 2021.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Shelley Sehnert, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Suite 208–T, Bethesda, MD 20817, (301) 827–7984, *ssehnert@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Program Project Applications (P01).
Date: November 4, 2021.
Time: 11:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).
Contact Person: Zhihong Shan, Ph.D., MD, Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 205–J, Bethesda, MD 20892, (301) 827–7085, *zhihong.shan@nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Program Project Applications (P01).
Date: November 12, 2021.
Time: 11:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).
Contact Person: Carol (Chang-Sook) Kim, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 206–B, Bethesda, MD 20892–7924, (301) 827–7940, *carolko@mail.nih.gov*

and

Contact Person: Kazuyo Kegan, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208–S, Bethesda, MD 20817, (301) 402–1334, *kazuyo.kegan@nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Mentored Career Development Awards—K24, K08.
Date: November 17, 2021.
Time: 11:30 a.m. to 2:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).
Contact Person: Lindsay M Garvin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Suite 208–Y, Bethesda, MD 20892, (301) 827–7911, *lindsay.garvin@nih.gov*.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; R25 Diversity Short-Term Training Grant Review Meeting.
Date: November 18, 2021.
Time: 1:00 p.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).
Contact Person: Tony L. Creazzo, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 207–Q, Bethesda, MD 20892–7924, (301) 827–7913, *creazzotl@mail.nih.gov*.
(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 23, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21127 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN Initiative: Biology and Biophysics of Neural Stimulation and Recording Technologies.
Date: October 20, 2021.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).
Contact Person: Mirela Milescu, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892, *mirela.milescu@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; R13 Review.
Date: October 26, 2021.
Time: 1:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).
Contact Person: Li Jia, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, NINDS/NIH, 6001 Executive Boulevard, Room 3208D, Rockville, MD 20852, 301 451–2854, *li.jia@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS Institutional Training Grants (T32).
Date: November 3–4, 2021.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).
Contact Person: Abhignya Subedi, Ph.D., Scientific Review Officer, Scientific Review Branch, Neurological Disorders and Stroke, 6001 Executive Blvd., Rockville, MD 20852, (301) 496–9223, *abhi.subedi@nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS R35 Grant Application Reviews.
Date: November 4–5, 2021.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).
Contact Person: Marilyn Moore-Hoon, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Neurological Disorders and Stroke Bethesda, MD 20892, 301 827–9087, *mooremar@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 23, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21128 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections

552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; Conference Grants.

Date: October 27, 2021.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Advancing Translational Sciences, National Institutes of Health 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: M. Lourdes Ponce, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, National Institutes of Health 6701 Democracy Boulevard, Room 1037, Bethesda, MD 20892, 301–435–0810, *lourdes.ponce@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: September 23, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21125 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Investigator Initiated Program Project Applications (P01 Clinical Trial Not Allowed).

Date: October 22, 2021.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G56, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Poonam Tewary, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G56, Rockville, MD 20852, (301) 761–7219, *tewaryp@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 23, 2021.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–21133 Filed 9–28–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2010–0164]

National Boating Safety Advisory Committee; Oct 2021 Teleconference

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee teleconference meeting.

SUMMARY: The National Boating Safety Advisory Committee (Committee) and its subcommittees will meet via teleconference to discuss matters relating to recreational boating safety. The meeting will be open to the public.

DATES:

Meeting: The National Boating Safety Advisory Committee will meet by teleconference on Thursday, October 21, 2021 from 12:00 p.m. until 4:30 p.m., (Eastern Daylight Time). The teleconference may adjourn early if the Committee has completed its business.

Comments and supporting documentation: To ensure your comments are received by Committee members before the teleconference, submit your written comments no later than October 14, 2021.

ADDRESSES: To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on October 19, 2021, to obtain the needed information. The number of teleconference lines are limited and will be available on a first-come, first-served basis.

Instructions: You are free to submit comments at any time, including orally at the teleconference as time permits, but if you want Committee members to review your comments before the teleconference, please submit your comments no later than October 14, 2021. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2010–0164]. Comments received will be posted without alteration at *https://www.regulations.gov,* including any personal information provided. You may wish to view the Privacy and Security notice available on the homepage of *https://regulations.gov* and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Decker, Alternate Designated Federal Officer of the National Boating Safety Advisory Committee, 2703 Martin Luther King Jr. Ave. SE, Stop 7509, Washington, DC 20593–7509, telephone 202–372–1507 or *NBSAC@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the *Federal Advisory Committee Act,* (5, U.S.C. Appendix). The National Boating Safety Advisory Committee was established on December 4, 2018, by § 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018* (Pub. L. 115–282, 132 Stat. 4192). That authority is codified in 46 U.S.C. 15105.

The Committee operates under the provisions of the *Federal Advisory Committee Act* (5 U.S.C. Appendix) in addition to the administrative provisions for the National Maritime Transportation Advisory Committees in 46 U.S.C. 15109. The National Boating Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters relating to recreational vessels and associated equipment and on other safety matters related to recreational vessels.

Agenda

The agenda for the National Boating Safety Advisory Committee meeting is as follows:

Thursday, October 21, 2021

(1) Call to Order.
(2) Roll call and determination of quorum.
(3) Opening remarks.
(4) Swearing-in of new appointees.
(5) Election by Committee members of Chairman and Vice-Chairman.
(6) Receipt and discussion of the following reports from the Office of Auxiliary and Boating Safety:
  (a) Update on Resolutions.
  (b) Strategic Planning.
  (c) Boating Incident Reporting Project.
  (d) Recreational Boating Regulations Status Report.
  (e) Taskers, expectations/topics.
  (f) Analysis Projects.
  (g) 2020 Recreational Boating Annual Statistics.
  (h) Review of Non-profit Grant Products.
  (i) 2022 Areas of Interest.
(7) Public Comment Period.
(8) Closing remarks/plans for next meeting.
(9) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/missions/ports-and-waterways/safety-advisory-committees/nbsac* no later than October 14, 2021. Alternatively, you may contact Mr. Jeff Decker as noted in the **FOR FURTHER INFORMATION** section above.

During the October 21, 2021 teleconference, a public comment period will be held from approximately 2:30 p.m.–2:45 p.m. Public comments will be limited to two minutes per speaker. Please note that the public comment periods will end following the last call for comments.

Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section, to register as a speaker.

Wayne R. Arguin, Jr.,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2021–21158 Filed 9–28–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2021–0738]

National Maritime Security Advisory Committee

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee teleconference meeting.

SUMMARY: The National Maritime Security Advisory Committee (Committee) will meet via teleconference, to review and discuss on matters relating to national maritime security, including on enhancing the sharing of information related to cybersecurity risks that may cause a transportation security incident, between relevant Federal agencies and (a) State, local, and tribal governments, (b) relevant public safety and emergency response agencies, (c) relevant law enforcement and security organizations, (d) maritime industry, (e) port owners and operators, and (f) terminal owners and operators. This teleconference will be open to the public.

DATES:

Meeting: The Committee will meet by teleconference on Thursday, October 28, 2021 from 1:00 p.m. until 3:00 p.m. Eastern Daylight Time (EDT). This teleconference may close early if all business is finished.

Comments and supporting documentation: To ensure your comments are received by Committee members before the teleconference, submit your written comments no later than October 15, 2021.

ADDRESSES: To join the teleconference or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. EDT on October 15, 2021, to obtain the needed information. The number of teleconference lines are limited and will be available on a first-come, first-served basis.

For information on services for individuals with disabilities, or to request special assistance, contact the individual listed in **FOR FURTHER INFORMATION CONTACT** below as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the teleconference as time permits, but if you want Committee members to review your comment before the teleconference, please submit your comments no later than October 15, 2021. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through Federal eRulemaking Portal at *https://regulations.gov.* If your material cannot be submitted using *https://regulations.gov,* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number USCG–2021–0738. Comments received will be posted without alteration at *https://www.regulations.gov* including any personal information provided. You may wish to view the Privacy and Security Notice available on the homepage of *https://www.regulations.gov* and DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov,* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Owens, Alternate Designated Federal Officer of the National Maritime Security Advisory Committee, 2703 Martin Luther King Jr. Avenue SE, Washington, DC 20593, Stop 7581, Washington, DC 20593–7581; telephone 202–302–6565 or email *ryan.f.owens@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* (5, U.S.C., Appendix). The Committee was established on December 4, 2018, by § 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018,* Public Law 115–282, 132 Stat. 4190. The National Maritime Security Advisory Committee provides advice, consults with, and makes recommendations to the Secretary of Homeland Security, via the Commandant of the Coast Guard, on

matters relating to national maritime security.

Agenda

(1) Call to Order.
(2) Introduction.
(3) Designated Federal Official Remarks.
(4) Roll call of Committee members and determination of quorum.
(5) Remarks from U.S. Coast Guard Senior Leadership.
(6) Swearing in of Committee Members.
(7) Election by Committee members of Chair and Vice-Chair.
(8) Presentation of tasks. The Coast Guard will present the following tasks and the Committee will determine if they will accept the tasks and form working groups:
  a. Provide feedback on cyber vulnerability assessments that are being conducted within the industry.
  b. Provide input to support further development of the Maritime Cyber Risk Assessment Model.
(9) Public comment period.
(10) Closing Remarks/plans for next meeting.
(11) Adjournment of meeting.

A copy of all meeting documentation will be available at *https://homeport.uscg.mil/NMSAC* by October 15, 2021. Alternatively, you may contact Mr. Ryan Owens as noted in the **FOR FURTHER INFORMATION** section above. There will be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Dated: September 23, 2021.

Wayne R. Arguin, Jr.,

Captain, U.S. Coast Guard, Director of Inspections and Compliance.

[FR Doc. 2021–21159 Filed 9–28–21; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Revocation of Trust Control International (Houston, TX), as an Approved Commercial Gauger

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

ACTION: General notice of revocation of Trust Control International as a customs-approved gauger.

SUMMARY: Notice is hereby given, pursuant to the U.S. Customs and Border Protection (CBP) regulations, that CBP's approval for Trust Control International's Houston, Texas, facility has been revoked from gauging petroleum and petroleum products for customs purposes.

DATES: The date of revocation is September 29, 2021.

FOR FURTHER INFORMATION CONTACT: Dr. Eugene Bondoc, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, regarding Trust Control International (Trust Control), 2800 Post Oak Blvd., Suite 4100, Williams Tower, Houston, TX 77056, Trust Control's approval has been indefinitely revoked from gauging petroleum and petroleum products for customs purposes in accordance with section 151.13 of the U.S. Customs and Border Protection (CBP) regulations in title 19 of the Code of Federal Regulations (CFR), (19 CFR 151.13). The basis for this revocation is pursuant to 19 CFR 151.13(d)(1)(vii), for the failure to meet the obligation as a CBP-approved commercial gauger to maintain a customs bond in accordance with part 113 of the CBP regulations (19 CFR part 113).

Inquiries regarding the entity's status as an approved gauger may be directed to CBP by calling (202) 344–1060 or by sending an email to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the website listed below for a complete listing of CBP-approved commercial gaugers and accredited laboratories. *http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories*

Dated: September 23, 2021.

Larry D. Fluty,

Executive Director, Laboratories and Scientific Services.

[FR Doc. 2021–21088 Filed 9–28–21; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0016]

Meetings To Implement Pandemic Response Voluntary Agreement Under Section 708 of the Defense Production Act

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Announcement of meetings.

SUMMARY: The Federal Emergency Management Agency (FEMA) held two meetings to implement the Voluntary Agreement for the Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic.

DATES: The first meeting took place on Tuesday, September 21, 2021, from 10 a.m. to 12 p.m. Eastern Time (ET). The second meeting took place on Thursday, September 23, 2021, from 10 a.m. to 12 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Robert Glenn, Office of Business, Industry, Infrastructure Integration, via email at *OB3I@fema.dhs.gov* or via phone at (202) 212–1666.

SUPPLEMENTARY INFORMATION: Notice of these meetings is provided as required by section 708(h)(8) of the Defense Production Act (DPA), 50 U.S.C. 4558(h)(8), and consistent with 44 CFR part 332.

The DPA authorizes the making of ''voluntary agreements and plans of action'' with representatives of industry, business, and other interests to help provide for the national defense.[1] The President's authority to facilitate voluntary agreements with respect to responding to the spread of COVID–19 within the United States was delegated to the Secretary of Homeland Security in Executive Order 13911.[2] The Secretary of Homeland Security further delegated this authority to the FEMA Administrator.[3]

On August 17, 2020, after the appropriate consultations with the Attorney General and the Chairman of the Federal Trade Commission, FEMA completed and published in the **Federal Register** a ''Voluntary Agreement, Manufacture and Distribution of Critical Healthcare Resources Necessary to

[1] 50 U.S.C. 4558(c)(1).

[2] 85 FR 18403 (Apr. 1, 2020).

[3] DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020); DHS Delegation Number 09052 Rev. 00 (Jan. 3, 2017).

Respond to a Pandemic'' (Voluntary Agreement).[4] Unless terminated earlier, the Voluntary Agreement is effective until August 17, 2025, and may be extended subject to additional approval by the Attorney General after consultation with the Chairman of the Federal Trade Commission. The Agreement may be used to prepare for or respond to any pandemic, including COVID–19, during that time.

On December 7, 2020, the first plan of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Personal Protective Equipment (PPE) to Respond to COVID–19 (PPE Plan of Action)—was finalized.[5] The PPE Plan of Action established several sub-committees under the Voluntary Agreement, focusing on different aspects of the PPE Plan of Action.

On May 24, 2021, four additional plans of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Diagnostic Test Kits and other Testing Components to respond to COVID–19, the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Drug Products, Drug Substances, and Associated Medical Devices to respond to COVID–19, the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Medical Devices to respond to COVID–19, and the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Medical Gases to respond to COVID–19—were finalized.[6] These plans of action established several sub-committees under the Voluntary Agreement, focusing on different aspects of each plan of action.

The meetings were chaired by the FEMA Administrator or her delegate and attended by the Attorney General and the Chairman of the Federal Trade Commission or their delegates. In implementing the Voluntary Agreement, FEMA adheres to all procedural requirements of 50 U.S.C. 4558 and 44 CFR part 332.

Meeting Objectives: The objectives of the meetings were as follows:

1. Gather committee Participants and Attendees to ask targeted questions for situational awareness related to the active Plans of Action (PPE, Drug Products and Drug Substances, Diagnostic Test Kits, Medical Devices, and Medical Gases).
2. Establish priorities for COVID–19 response under the Voluntary Agreement.
3. Identify tasks that should be completed under the appropriate Sub-Committee.
4. Identify information gaps and areas that merit sharing (both from FEMA to the private sector and vice versa).

Meetings Closed to the Public: By default, the DPA requires meetings held to implement a voluntary agreement or plan of action be open to the public.[7] However, attendance may be limited if the Sponsor[8] of the voluntary agreement finds that the matter to be discussed at a meeting falls within the purview of matters described in 5 U.S.C. 552b(c), such as trade secrets and commercial or financial information. The Sponsor of the Voluntary Agreement, the FEMA Administrator, found that these meetings to implement the Voluntary Agreement involved matters which fall within the purview of matters described in 5 U.S.C. 552b(c) and the meetings were therefore closed to the public.

Specifically, these meetings to implement the Voluntary Agreement may have required participants to disclose trade secrets or commercial or financial information that is privileged or confidential. Disclosure of such information allows for meetings to be closed pursuant to 5 U.S.C. 552b(c)(4). In addition, the success of the Voluntary Agreement depends wholly on the willing and enthusiastic participation of private sector participants. Failure to close these meetings could have had a strong chilling effect on private sector participation and caused a substantial risk that sensitive information would be prematurely released to the public, leading to participants withdrawing their support from the Voluntary Agreement.

This would have significantly frustrated the implementation of the Voluntary Agreement. Frustration of an agency's objective due to premature disclosure of information allows for the closure of a meeting pursuant to 5 U.S.C. 552b(c)(9)(B).

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–21192 Filed 9–28–21; 8:45 am]

BILLING CODE 9111–19–P

[4] 85 FR 50035 (Aug. 17, 2020). The Attorney General, in consultation with the Chairman of the Federal Trade Commission, made the required finding that the purpose of the voluntary agreement may not reasonably be achieved through an agreement having less anticompetitive effects or without any voluntary agreement and published the finding in the **Federal Register** on the same day. 85 FR 50049 (Aug. 17, 2020).

[5] *See* 85 FR 78869 (Dec. 7, 2020). *See also* 85 FR 79020 (Dec. 8, 2020).

[6] *See* 86 FR 27894 (May 24, 2021). *See also* 86 FR 28851 (May 28, 2021).

[7] *See* 50 U.S.C. 4558(h)(7).

[8] ''[T]he individual designated by the President in subsection (c)(2) [of section 708 of the DPA] to administer the voluntary agreement, or plan of action.'' 50 U.S.C. 4558(h)(7).

DEPARTMENT OF HOMELAND SECURITY

Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 1601–0014

AGENCY: Department of Homeland Security, (DHS).

ACTION: 30-Day notice and request for comments; extension without change of a currently approved Collection, 1601–0014.

SUMMARY: The Department of Homeland Security, will submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. DHS previously published this information collection request (ICR) in the **Federal Register** on Thursday, May 27, 2021 at for a 60-day public comment period. There were no comments received by DHS. The purpose of this notice is to allow additional 30-days for public comments.

DATES: Comments are encouraged and will be accepted until October 29, 2021. This process is conducted in accordance with 5 CFR 1320.1.

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 electing ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

SUPPLEMENTARY INFORMATION: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, Department of Homeland Security (hereafter ''the Agency'') seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions but are not statistical surveys that yield

quantitative results that can be generalized to the population of study.

This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Improving agency programs requires ongoing assessment of service delivery, by which we mean systematic review of the operation of a program compared to a set of explicit or implicit standards, as a means of contributing to the continuous improvement of the program. The Agency will collect, analyze, and interpret information gathered through this generic clearance to identify strengths and weaknesses of current services and make improvements in service delivery based on feedback. The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency (if released, procedures outlined in Question 16 will be followed);
- Information gathered will not be used for the purpose of substantially informing influential policy decisions; [1]
- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study;
- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future; and
- With the exception of information needed to provide renumeration for participants of focus groups and cognitive laboratory studies, personally identifiable information (PII) is collected only to the extent necessary and is not retained.

If these conditions are not met, the Agency will submit an information collection request to OMB for approval through the normal PRA process.

To obtain approval for a collection that meets the conditions of this generic clearance, a standardized form will be submitted to OMB along with supporting documentation (*e.g.,* a copy of the comment card). The submission will have automatic approval, unless OMB identifies issues within 5 business days.

The types of collections that this generic clearance covers include, but are not limited to:

- Customer comment cards/complaint forms
- Small discussion groups
- Focus Groups of customers, potential customers, delivery partners, or other stakeholders
- Cognitive laboratory studies, such as those used to refine questions or assess usability of a website;
- Qualitative customer satisfaction surveys (*e.g.,* post-transaction surveys; opt-out web surveys)
- In-person observation testing (*e.g.,* website or software usability tests)

[1] As defined in OMB and agency Information Quality Guidelines, ''influential'' means that ''an agency can reasonably determine that dissemination of the information will have or does have a clear and substantial impact on important public policies or important private sector decisions.''

The Agency has established a manager/managing entity to serve for this generic clearance and will conduct an independent review of each information collection to ensure compliance with the terms of this clearance prior to submitting each collection to OMB.

If appropriate, agencies will collect information electronically and/or use online collaboration tools to reduce burden.

Small business or other small entities may be involved in these efforts, but the Agency will minimize the burden on them of information collections approved under this clearance by sampling, asking for readily available information, and using short, easy-to-complete information collection instruments.

Without these types of feedback, the Agency will not have timely information to adjust its services to meet customer needs.

If a confidentiality pledge is deemed useful and feasible, the Agency will only include a pledge of confidentiality that is supported by authority established in statute or regulation, that is supported by disclosure and data security policies that are consistent with the pledge, and that does not unnecessarily impede sharing of data with other agencies for compatible confidential use. If the agency includes a pledge of confidentiality, it will include a citation for the statute or regulation supporting the pledge.

There is no change in the information being collected. There is no change to the burden associated with this collection.

The Office of Management and Budget is particularly interested in comments which:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Analysis:

Agency: Department of Homeland Security, (DHS).

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 1601–0014.

Frequency: On Occasion.

Affected Public: Private Sector.

Number of Respondents: 184,902.

Estimated Time per Respondent: 1 Hour.

Total Burden Hours: 300,000.

Robert Dorr,

Executive Director, Business Management Directorate.

[FR Doc. 2021–21178 Filed 9–28–21; 8:45 am]

BILLING CODE 9112–FL–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket No. TSA–2005–20118]

Intent To Request Extension From OMB of One Current Public Collection of Information: Maryland Three Airports: Enhanced Security Procedures for Operations at Certain Airports in the Washington, DC, Metropolitan Area Flight Restricted Zone

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0029, that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection is necessary to comply with a requirement for individuals to successfully complete a security threat assessment before: (1) Operating an aircraft to or from the three Maryland airports (Maryland Three Airports) that are located within the Washington, DC, Metropolitan Area Flight Restricted Zone (FRZ), or (2) serving as an airport security coordinator at one of these three airports.

DATES: Send your comments by November 29, 2021.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0029; Maryland Three Airports: Enhanced Security Procedures for Operations at Certain Airports in the Washington, DC Metropolitan Area Flight Restricted Zone, 49 CFR part 1562. TSA's regulations impose requirements and security procedures on airport operators of three Maryland airports located within the Washington, DC, Metropolitan Area FRZ (Maryland Three Airports),[1] and on individuals operating aircraft to or from these airports. The information collected is used to determine compliance with 49 CFR part 1562, subpart A.

Part 1562, subpart A, allows an individual who is approved by TSA to operate an aircraft to or from one of the Maryland Three Airports or to serve as an airport security coordinator at one of these airports. In order to be approved, a pilot or airport security coordinator applicant is required to submit information and successfully complete a security threat assessment. As part of this threat assessment, the applicant must submit his or her fingerprints and undergo a criminal history records check and a check of Government terrorist watch lists and other databases to determine whether the individual poses, or is suspected of posing, a threat to transportation or national security. An applicant will not receive TSA's approval under this analysis if TSA determines or suspects the applicant of being a threat to national or transportation security.

Applicants can be fingerprinted at the Ronald Reagan Washington National Airport's (DCA) badging office and any participating airport badging office or law enforcement office located nearby to the applicant's residence or place of work. Applicants must present the following information to TSA, using TSA Form 418, as part of the application process: Full name; Social Security number; date of birth; address; phone numbers; current and valid airman certificate or current and valid student pilot certificate; current medical certificate; a list of the make, model, and Federal Aviation Administration (FAA) aircraft registration number for each aircraft the pilot intends to operate at Maryland Three Airports; one form of Government-issued picture ID; the certificate of completion of the FAA DC Special Flight Rules Area training; and fingerprints. Although not required by the rule, TSA asks applicants to voluntarily provide an email address and emergency contact phone number to facilitate immediate communication that might be necessary when operating in the FRZ or helpful during the application process.

TSA also provides an option to submit certain documents for the application by email. For example, applicants no longer need to submit the required documentation to the FAA Flight Standards District Offices in-person, but may submit the information to TSA electronically at *mdthree@tsa.dhs.gov.* This option does not apply to fingerprints, which continue to be collected in-person at the various locations.

TSA receives approximately 369 applications annually and estimates applicants spend approximately 5.75 hours to prepare and submit the information to TSA, which is a total annual burden of 2,121.75 hours.

Dated: September 24, 2021.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2021–21143 Filed 9–28–21; 8:45 am]

BILLING CODE 9110–05–P

[1] The Maryland Three Airports are: College Park Airport (CGS), Potomac Airfield (VKX), and Washington Executive/Hyde Field (W32).

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

RIN 1652–ZA18

TSA PreCheck® Application Program Fees

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: The Transportation Security Administration (TSA) administers the TSA PreCheck® Application Program, in which members of the public may apply to be eligible for expedited airport security screening. To apply for TSA PreCheck® Application Program eligibility, individuals voluntarily provide biometric and biographic information that TSA uses to conduct a security threat assessment and those applicants pay a fee to cover the cost to operate the TSA PreCheck® Application Program. In this Notice, TSA announces a change to the overall structure of the TSA PreCheck® Application Program Fee, establishes the fee amount of the TSA fee component within that structure, and identifies the fee for initial applications, in-person renewals, and online renewals for individuals enrolling through the Universal Enrollment Services enrollment provider. These updates are necessary to respond to recent changes in both cost and revenue streams that have occurred as a result of the global pandemic. These updates will enable investments to improve the TSA PreCheck® airport experience and will help to ensure that the program remains fully funded through the imposition and collection of fees from program applicants. TSA will publish and maintain a current listing of the overall fees for all TSA PreCheck® enrollment options at *tsa.gov/precheck.*

DATES: This notice is effective October 1, 2021.

FOR FURTHER INFORMATION CONTACT: Anne Walbridge, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6047; or email at *TSAPrecheckEnrollment@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Availability of Notice Document

(1) Searching the electronic Federal Docket Management System web page at *http://www.regulations.gov;*

(2) Accessing the Government Printing Office's web page at *http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR* to view the daily published **Federal Register** edition; or accessing the ''Search the **Federal Register** by Citation'' in the ''Related Resources'' column on the left, if you need to do a Simple or Advanced search for information, such as a type of document that crosses multiple agencies or dates; or

(3) Visiting TSA's Security Regulations web page at *http://www.tsa.gov* and accessing the link for ''Stakeholders'' at the top of the page, then the link ''Research Center'' in the left column.

In addition, copies are available by writing or calling the individual in the **FOR FURTHER INFORMATION CONTACT** section.

I. Summary

The TSA PreCheck® Application Program is a voluntary, expedited security screening program connecting low-risk travelers departing from the United States with smarter security and a better air travel experience.[1] There are approximately 10 million members in the TSA PreCheck® Application Program. Individuals enrolled in the TSA PreCheck® Application Program are eligible to receive expedited screening at U.S. airports. As explained in a December 2013 Notice in the **Federal Register**,[2] membership in the TSA PreCheck® Application Program is within the sole discretion of TSA. Individuals may also receive TSA PreCheck® expedited screening via membership in other programs such as certain U.S. Customs and Border Protection Trusted Traveler Programs. These individuals do not pay a fee to TSA for membership in such other programs.

TSA established the TSA PreCheck® Application Program in December 2013 to expand access to expedited screening to individuals who voluntarily provide information that TSA uses to determine whether the traveler is low risk.[3] TSA uses biographic and biometric information the applicant provides to conduct a Security Threat Assessment (STA) that includes review of criminal history, immigration, intelligence, and regulatory violation records. As part of the enrollment process, TSA requires that applicants present government-issued identity documents with a photo to prove their identity. To prepare for REAL ID enforcement, in advance of the REAL ID card-based enforcement deadline,[4] TSA will require new TSA PreCheck® Application Program applicants as well as renewal applicants to provide a REAL ID-compliant document if enrolling with a state-issued identity document. Applicants must also prove they are a U.S. person.

Following enrollment, TSA evaluates the information generated by the vetting process to determine whether the individual poses a low risk to transportation and national security. Once completed, the STA remains valid for five years, provided the individual continues to meet the eligibility standards. At the end of the five-year term, individuals wishing to maintain their TSA PreCheck® Application Program eligibility must renew their membership in the program which includes a new STA.

If TSA determines that the applicant is low risk, TSA issues a Known Traveler Number (KTN)[5] that the individual can use when making flight reservations. Enrollment in the TSA PreCheck® Application Program and use of the associated KTN do not guarantee that an individual will receive expedited screening at airport security checkpoints. TSA retains an element of randomness to maintain unpredictability for security purposes, and travelers with valid KTNs may be selected for standard or enhanced physical screening on occasion.

An individual is ineligible for a KTN and thus access to TSA PreCheck® expedited screening if TSA determines that the individual poses a risk to transportation or national security; has committed certain criminal acts;[6] does not meet the immigration status standards;[7] has committed regulatory violations;[8] or is otherwise not a low-risk traveler. TSA notifies individuals who it determines are ineligible for a KTN through the TSA PreCheck Application Program, or whose enrollment in the program is revoked, in writing, and they continue to undergo

[1] For purpose of this document, the ''TSA PreCheck Application Program'' refers to the DHS Trusted Traveler Program that TSA operates to determine if individuals are low-risk and may receive expedited screening. ''TSA PreCheck'' refers to expedited screening provided by TSA.

[2] *See* Notice, 78 FR 72922 (December 4, 2013).

[3] *Id.*

[4] Information regarding REAL ID requirements and enforcement deadlines is available at *www.dhs.gov/real-id.*

[5] The Known Traveler Number is a component of Secure Flight Passenger Data, which is defined in TSA Secure Flight regulations at 49 CFR 1560.3. *See also* the Secure Flight regulations at 49 CFR part 1560.

[6] *See* 49 CFR 1572.103 for the criminal standards that apply to TSA PreCheck applicants.

[7] Individuals who apply for membership in the TSA PreCheck® Application Program must be U.S. citizens, U.S. Nationals, or Lawful Permanent Residents.

[8] For instance, an individual who interferes with security screening or brings a weapon to the security checkpoint would be deemed ineligible for TSA PreCheck® expedited screening and their membership in the program may be revoked.

standard screening at airport security checkpoints.

TSA is required by law to charge a non-refundable fee to cover the costs of operating the TSA PreCheck® Application Program.[9] Collecting biographic and biometric information from applicants, conducting the STA, adjudicating the results of the STA, and managing the program [10] generate costs for TSA and for the enrollment providers who TSA has selected to help facilitate enrollment into the program. In the December 2013 Notice, TSA established a fee structure with a total fee of $85.[11] That total fee was comprised of a TSA Fee of $70.50 and an Federal Bureau of Investigations (FBI) Fee of $14.50. The TSA Fee included costs incurred by TSA as well as costs incurred by the enrollment provider. The FBI Fee was the cost set to conduct a fingerprint-based criminal history records check.

In July 2021, TSA published a notice announcing the anticipated launch of additional enrollment providers who will be able to establish additional price points for the TSA PreCheck® Application Program.[12] TSA expects additional enrollment options through these providers to become available in 2021 to increase opportunities to apply for membership in the program. The new fee structure reflects this change in the program and will now consist of a TSA Component and Enrollment Provider Component that together, will be the Total Fee. The Enrollment Provider Component will take into account the cost of the criminal history records check conducted by the FBI. TSA will continue to publish the total fee amounts for all enrollment options via the agency's website at *www.tsa.gov/precheck.*

II. Discussion of TSA Fee Change

TSA will impose the TSA Component of the fee for all individuals who apply for and renew membership. The TSA Component of the fee will be collected by the enrollment providers and remitted to TSA to cover the TSA costs to operate this successful traveler program for approximately 10 million travelers. Consistent with the statutory mandate,[13] the TSA Component of the fee recovers TSA's costs to analyze the immigration, terrorism, criminal, and regulatory violation information generated in the checks of the various databases; determine whether applicants have a disqualifying factor or are eligible for the TSA PreCheck® Application Program; notify applicants of TSA's determination; issue KTNs to eligible individuals; conduct research and development for innovative enhancements to improve the TSA PreCheck® Application Program enrollment and the TSA PreCheck® expedited screening experience; and continue to monitor databases and information to confirm that the members remain low risk.

The STA conducted by TSA will cover a term of five years from the date of approval and must be renewed with TSA at the end of that term if an individual wishes to maintain their TSA PreCheck® eligibility. Enrollment providers will be permitted to offer shorter duration memberships (*e.g.,* one-year memberships) but must still remit the full TSA Component fee at initial enrollment to TSA to cover TSA's five-year costs. If a member allows the membership to lapse for any period of time and subsequently applies for renewal, the enrollment provider must remit the full TSA Component fee again.

TSA has determined that the TSA Component must be $42.75 in order to cover TSA-costs associated with STAs and operating the TSA PreCheck® Application Program. While TSA was able to achieve a small reduction in operating costs during the global pandemic (approximately $20 million), TSA experienced a significant reduction in revenue as a direct result of the measurable decline in air travel, program enrollments, and program renewals. TSA estimates that from April 2020 through March 2021 TSA experienced a $65 million reduction in anticipated revenue. While TSA PreCheck® enrollment recovered significantly as of the summer of 2021, TSA must account for lost revenue and unknown future enrollment volumes given unknown long term travel recovery. By separating the TSA Component and the Enrollment Provider Component, TSA can ensure that future revenue covers TSA's costs while promoting pricing transparency as new enrollment providers compete for applicants. See Table 1 for a summary of the changes to the fee components.

TABLE 1—COMPARISON OF CURRENT AND NEW FEE STRUCTURES

Current fee structure	New fee structure
TSA Costs & Provider Costs.	FBI Fee & Provider Costs
FBI Fee	TSA Costs
Total Fee = $85.00	UES Fee = $85.00

While the new enrollment providers will offer varying price points, TSA and its current enrollment provider will maintain the $85.00 price currently set for new enrollments and in-person renewals. TSA offers an option for online renewal of TSA PreCheck Application® Program membership and over 95% of individuals choose the online renewal option. With this notice, TSA is announcing that the fee for online renewal will be $70.00 for enrollments through the Universal Enrollment Services enrollment provider. Future changes to this enrollment product and fees will be published on the TSA website at *www.tsa.gov/precheck.*

TSA estimates that the new TSA Component fee, will result in collections of an additional $44 million between Fiscal Year (FY) 2022 and FY 2025. This increased revenue will ensure that the TSA PreCheck Application® Program will remain solvent in future years. The increased revenue will also allow TSA to invest in improvements to the TSA PreCheck® airport experience. TSA will continue to monitor its costs and enrollments to ensure the program remains viable and the revenue aligns with cost.

The cost estimates used to determine the fee have been developed in accordance with the applicable statutory language, section 540 of the DHS Appropriations Act, 2006, and Office of Management and Budget Circular A–25. Further cost information is provided in the TSA PreCheck Application Program Fee Development Report at *www.tsa.gov/precheck.*

TSA will continue to publish the most up to date fee and product information for all enrollment options at *www.tsa.gov/precheck.*

Dated: September 23, 2021.

David Pekoske,

Administrator.

[FR Doc. 2021–21147 Filed 9–28–21; 8:45 am]

BILLING CODE 9110–05–P

[9] *See* 49 U.S.C. 114; § 540 of the DHS appropriations act of 2006, Public Law 109–90 (119 Stat. 2064, 2088–89, Oct. 18, 2005).

[10] *Id.*

[11] *See supra* n. 2 at 72925 *et seq.*

[12] *See* Notice, 86 FR 36293 (July 9, 2021).

[13] *See infra* n. 9.

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Revision of Agency Information Collection Activity Under OMB Review: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

AGENCY: Transportation Security Administration, DHS.

ACTION: 30-Day notice.

SUMMARY: This notice announces that the Transportation Security Administration (TSA) has forwarded the Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0044, abstracted below, to OMB for review and approval of a revision of the currently approved collection under the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of identifying and travel experience information by individuals requesting redress through the Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP). The collection also involves two voluntary customer satisfaction surveys to identify areas for program improvement.

DATES: Send your comments by October 29, 2021. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' and by using the find function.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh, TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011; telephone (571) 227–2062; email *TSAPRA@dhs.gov.*

SUPPLEMENTARY INFORMATION: TSA published a **Federal Register** notice, with a 60-day comment period soliciting comments, of the following collection of information on June 4, 2021, 86 FR 30064.

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques.

Information Collection Requirement

Title: DHS TRIP.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 1652–0044.

Forms(s): Traveler Inquiry and Survey Forms.

Affected Public: Traveling Public.

Abstract: DHS TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they have experienced during their travel screening. The TSA manages the DHS TRIP office on behalf of DHS. The collection of information includes: (1) A Traveler Inquiry Form (TIF), which includes the individual's identifying and travel experience information; and (2) two optional, anonymous customer satisfaction surveys to allow the public to provide DHS feedback on its experience using DHS TRIP.

TSA is revising the information collection by aligning the TIF question set to match naming standards set forth by the US Department of State (DoS). Making these changes will ensure consistency with how other federal agencies input names and identification data elements into their systems. TSA always queries TECS and the Secure Flight User Interface that use DoS naming standards; this change will enable easier review and assessment of applications. TIF users will continue to provide their full name, date of birth, and other data elements; however, they will now match the naming standards of DoS as shown on their passports or other travel documents. For example, for Name, TSA is changing the question from ''First Name, Middle Name, Last Name'' to ''Given Name and Surname.'' For Place of Birth, TSA is changing the ''Place of Birth (City or Town)'' to ''Place of Birth (Country (mandatory) City or Town (optional)).'' This will enable easier review and assessment of applications. In addition, TSA is revising the TIF to include additional travel experience scenario options, involving Electronic Visa Update System and Global Entry; and two additional identity documentation options, Electronic System for Travel Authorization application and the Student Exchange Visitor Information System ID number. Finally, TSA has made non-substantial changes to the form, updating TSA's current address. TSA will provide a table of changes for the TIF form.

Number of Respondents: 15,000.

Estimated Annual Burden Hours: An estimated 15,500 hours annually.

Estimated Cost Burden: An estimated $14,490 annually.

Dated: September 23, 2021.

Christina Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2021–21096 Filed 9–28–21; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Temporary Exemption of Certain Aircraft Operator Security Standards

AGENCY: Transportation Security Administration, DHS.

ACTION: Notice.

SUMMARY: In this Notice, TSA issues an exemption from the requirements to regulated domestic aircraft operators that comply with the measures described in the exemption. TSA determines it is in the public interest to minimize or eliminate duplicate criminal history records checks (CHRC) for individuals who work for multiple employers at an airport. All other provisions continue to apply to regulated aircraft operators, their employees, and their authorized representatives.

DATES: This exemption becomes effective on September 29, 2021, and remains in effect until modified or rescinded by TSA through a notice published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Eric Byczynski, Airport Security Programs, Aviation Division, Policy, Plans, and Engagement; *eric.byczynski@tsa.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Aviation Security

TSA administers a comprehensive regulatory program governing aviation security, including standards for domestic airports, domestic aircraft operators, and foreign air carriers. The security requirements for domestic aircraft operators are codified at 49 CFR

part 1544 and include minimum standards for (1) the protection of the aircraft and related facilities; (2) acceptance and screening of cargo; (3) use of law enforcement personnel and the transport of Federal Air Marshals; (4) flight deck privileges; (5) training of individuals engaged in security functions; (6) carriage of accessible weapons; (7) access to cargo and cargo screening; (8) security threat assessments (STAs) and CHRCs; (9) airport-approved identification systems; and (10) the known shipper program. Also, in accordance with part 1544, aircraft operators must develop and follow TSA-approved security programs,[1] and comply with Security Directives issued by TSA.

The nature of aviation operations at commercial airports requires aircraft operators to share space and workers with other airlines. For instance, an aircraft may traverse several airports in a day, and the aircraft operator needs individuals at each airport to assist with typical operations, including aircraft movement, loading, and unloading; screening and accepting cargo or checked baggage for transport; or supervisory tasks related to these functions. The majority of these individuals work in the airport Security Identification Display Area (SIDA), but some may also work in the airport Sterile Area.[2] It is not economical or efficient for an aircraft operator to hire direct employees to work at all airports where it has flights, or for individuals to work only for that aircraft operator. The aircraft operator may have very few flights at an airport, and consequently employees would not have a full day's work if limited to working only for that aircraft operator. Some of the individuals who work in the SIDA for an aircraft operator may be full-time employees, but the vast majority are ''authorized representatives'' of multiple aircraft operators. An ''authorized representative'' is a person who is not a direct employee of the aircraft operator, but is authorized to carry out operational and regulatory functions, such as loading or unloading aircraft; or screening or accepting cargo and checked baggage on behalf of the aircraft operator. Authorized representatives are treated similarly to employees if a regulatory violation occurs: although the authorized representative performs the function, the aircraft operator remains responsible for completion of those functions. Thus, an individual who works in an airport SIDA often is an authorized representative for numerous commercial aircraft operators, and generally the aircraft operators are responsible for regulatory violations committed by the individual.

Vetting Requirements

In accordance with the governing statute,[3] TSA's regulations require most individuals who work in aviation operations for an aircraft or airport operator to undergo a fingerprint-based CHRC. If the individual has a conviction for certain crimes within the preceding 10 years, the airport or aircraft operator must not give the individual unescorted access to the SIDA, and the aircraft operator must not permit the individual to perform certain covered functions, such as loading and unloading aircraft; screening or accepting cargo or checked baggage for transport on aircraft; or supervising these functions. These regulations also set out requirements for fingerprint application processing, fingerprinting fees, determining arrest status, correcting inaccurate criminal records, dissemination of criminal records, recordkeeping, continuing responsibilities of the individual, and aircraft operator duties.[4]

Workers who need unescorted access to SIDAs at airports, where aircraft are typically loaded and unloaded, must successfully complete a CHRC.[5] Individuals who work on behalf of aircraft operators to accept checked baggage and screen cargo are required to undergo a CHRC,[6] and aircraft operator flight crew members are required to complete a CHRC.[7] Some individuals who work in airport SIDAs for an aircraft operator or as an authorized representative of an aircraft operator are subject to duplicative requirements: 49 CFR 1542.209 requires the airport operator to conduct a CHRC of all individuals seeking unescorted access to the SIDA, and 49 CFR 1544.229 requires aircraft operators to conduct CHRCs of employees and authorized representatives who perform certain covered functions that may occur in airport SIDAs. The regulations permit an aircraft operator to conduct a CHRC of a covered employee or authorized representative and provide the airport operator a letter certifying that the individual successfully completed the CHRC.[8] This process reduces the number of duplicate CHRCs the airport operator, aircraft operator, and individual must complete. However, airport operators are not required to accept these CHRC certifications from aircraft operators, and many airport operators favor conducting their own CHRCs even when the aircraft operator has conducted one.

Recent improvements by the Federal Bureau of Investigation (FBI) provide recurrent criminal history checks so that once an individual's fingerprints are submitted to the FBI, the transmitter receives any additional criminal history associated with those fingerprints that occurs after the initial report from the FBI. This program, known as Rap Back,[9] greatly improves the accuracy and effectiveness of criminal vetting and security. TSA invited airport operators and aircraft operators to volunteer to participate in the Rap Back program in 2018. Most airport operators and many aircraft operators volunteered to participate in Rap Back for their employees and authorized representatives who are required to undergo a CHRC. The airport operator or aircraft operator must 'subscribe' the individual's fingerprints in Rap Back when first submitting the fingerprints to the FBI. Once the fingerprints are subscribed, the airport- or aircraft operator will automatically receive information concerning new criminal activity associated with those fingerprints and the individual. The airport- or aircraft operator must continuously review these Rap Back notifications to determine whether the individual has committed a new disqualifying offense. If a disqualifying event occurs, the airport- or aircraft operator must revoke the individual's unescorted access to the SIDA and/or authorization to perform covered functions, such as the acceptance or screening of cargo or checked baggage. Through security program amendments, TSA is now requiring airport operators and aircraft operators to subscribe all individuals who undergo CHRCs into Rap Back.

As discussed above, workers who are granted unescorted access to SIDAs by the airport operator and are also employed by or act as an authorized representative for several aircraft operators when conducting certain functions, are subject to multiple CHRCs and Rap Back subscriptions. TSA seeks to ensure that all individuals required to undergo a CHRC actually complete that CHRC and are subscribed to Rap Back. However, requiring all entities—the airport that issues the SIDA badge and the aircraft operators that employ or

[1] *See* 49 CFR part 1544, subpart B.

[2] *See* 49 CFR 1540.5 for definitions of SIDA and Sterile Area.

[3] *See* 49 U.S.C. 44936.

[4] *See* 49 CFR 1544.229(c)–(m).

[5] *See* 49 CFR 1542.209.

[6] *See* 49 CFR 1544.229.

[7] *See* 49 CFR 1544.230.

[8] *See* 49 CFRa 1542.209(n).

[9] The full name of the program is the Record of Arrest and Prosecution Background.

have an authorized representative relationship with the individual—to perform CHRCs is costly and unnecessary. Therefore, TSA is issuing this exemption to the CHRC and related requirements in 49 CFR 1544.229, provided aircraft operators comply with the requirements of the exemption that will ensure accountability for full CHRC and Rap Back coverage.

Authority and Determination

TSA may grant an exemption from a regulation if TSA determines that the exemption is in the public interest.[10] TSA finds this exemption to be in the public interest because it minimizes or eliminates redundant CHRCs and Rap Back subscriptions for certain workers at regulated airports, who work for multiple employers. TSA has determined that there is no risk to transportation security associated with this exemption because it provides an option to eliminate only duplicative, redundant security requirements.

Exemption

1. *Eligibility.* The exemption applies only where the following criteria exist:

- The individual works at an airport with a SIDA, as prescribed in 49 CFR 1542.103(a) or § 1542.103(b) with SIDA;
- The individual's duties include accepting checked baggage for transport, as prescribed in 49 CFR 1544.229(a)(3)(ii); screening or supervising the screening of cargo as prescribed in 49 CFR 1544.229(a)(3)(i); screening cargo as prescribed in 49 CFR 1544.229(a)(1)(iii)(C); and/or supervising the screening of cargo as prescribed 49 CFR 1544.229(a)(1)(iii)(B);
- The individual must have unescorted access to a SIDA or Sterile Area and possess an airport operator-issued SIDA and/or Sterile Area ID media, as prescribed in 49 CFR 1542.209 or SD 1542–04–08 series;
- The individual is not the subject of a CHRC certification as set forth in 49 CFR 1544.229(a)(1)(i); and
- The individual does not possess a CREW/RAMP/EXCLUSIVE aircraft operator-issued SIDA ID media as set forth in 49 CFR 1544.229(a)(1)(ii).

2. *Exemption.* For the duration of this exemption, an aircraft operator is not required to conduct a CHRC, Rap Back subscription, or comply with the related requirements in 49 CFR 1544.229(c)–(m) for the individuals who meet the eligibility criteria.

3. *Duration.* This exemption takes effect on September 29, 2021 and remains in effect until modified or rescinded by TSA through a notice published in the **Federal Register**.

Dated: September 23, 2021.

David Pekoske,

Administrator.

[FR Doc. 2021–21190 Filed 9–28–21; 8:45 am]

BILLING CODE 9110–05–P

[10] 49 U.S.C. 114(q).

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Extension From OMB of One Current Public Collection of Information: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0058, that we will submit to OMB for an extension in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The information collection activity provides a means to gather qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

DATES: Send your comments by November 29, 2021.

ADDRESSES: Comments may be emailed to *TSAPRA@dhs.gov* or delivered to the TSA PRA Officer, Information Technology (IT), TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0058; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. This information collection provides a means to gather qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

From the TSA perspective, qualitative customer and stakeholder feedback provides useful insights on perceptions and opinions. Unlike the results of statistical surveys, which yield quantitative results that can be generalized to the population of study, this qualitative feedback provides insights into customer or stakeholder perceptions, experiences, and expectations regarding TSA products or services. Such feedback also provides TSA with an early warning of issues with service, and focuses attention on areas where improvement is needed regarding communication, training, or changes in operations that might improve delivery of products or services. These collections allow for ongoing, collaborative, and actionable communications between the Agency and its customers and stakeholders. They also allow feedback to contribute directly to the improvement of program management. The solicitation of feedback targets areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses are assessed to plan and inform efforts to improve or maintain the quality of service offered by TSA. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this

generic clearance if it meets the following conditions:

- The collections are voluntary.
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government.
- The collections are noncontroversial and do not raise issues of concern to other Federal agencies.
- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future.
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, or other matters that are commonly considered private.

The aggregate burden estimate is based on a review of past behavior of participating program offices and several individual office estimates. The likely respondents to this proposed information request are State, local, or tribal government and law enforcement; the traveling public; individuals and households; and businesses and organizations. TSA estimates an average of 10 annual surveys with approximately 7,094,500 responses total. TSA further estimates a frequency of one response per request, with an average response time of 10 to 30 minutes, resulting in an estimated annual hour burden of 1,180,050 hours. TSA will provide more refined individual estimates of burden in its subsequent generic information collection applications.

Dated: September 24, 2021.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2021–21142 Filed 9–28–21; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0020]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition for Amerasian, Widow(er), or Special Immigrant

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until November 29, 2021.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0020 in the body of the letter, the agency name and Docket ID USCIS–2007–0024. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0024.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0024 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for Amerasian, Widow(er), or Special Immigrant.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–360; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or

households. Form I–360 may be used by an Amerasian; a widow or widower; a battered or abused spouse or child of a U.S. citizen or lawful permanent resident; a battered or abused parent of a U.S. citizen son or daughter; or a special immigrant (religious worker, Panama Canal company employee, Canal Zone government employee, U.S. government employee in the Canal Zone; physician, international organization employee or family member, juvenile court dependent; armed forces member; Afghanistan or Iraq national who supported the U.S. Armed Forces as a translator; Iraq national who worked for the or on behalf of the U.S. Government in Iraq; or Afghan national who worked for or on behalf of the U.S. Government or the International Security Assistance Force [ISAF] in Afghanistan) who intend to establish their eligibility to immigrate to the United States. The data collected on this form is reviewed by U.S. Citizenship and Immigration Services (USCIS) to determine if the petitioner may be qualified to obtain the benefit. The data collected on this form will also be used to issue an employment authorization document upon approval of the petition for battered or abused spouses, children, and parents, if requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Petition for Amerasian, Widower, or Special Immigration (Form I–360); *Iraqi & Afghan Petitioners* is 2,874 and the estimated hour burden per response is 3.1 hours; the estimated total number of respondents for the information collection Petition for Amerasian, Widower, or Special Immigration (Form I–360); *Religious Workers* is 2,393 and the estimated hour burden per response is 2.35 hours; the estimated total number of respondents for the information collection Petition for Amerasian, Widower, or Special Immigration (Form I–360); *All Others* is 14,362 and the estimated hour burden per response is 2.1 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 44,693 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $2,404,430.

Dated: September 21, 2021.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2021–21090 Filed 9–28–21; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#-32709; 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 September 18, 2021, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by October 14, 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 September 18, 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:

NEW YORK

Albany County

Consolidated Car Heating Company Complex, 413 North Pearl St., 928–940 Broadway, Albany, SG100007080

Broome County

Main Street Historic District, 5–131½ and 8–142 Main, 80–138 and 83–155 Front, 109 Oak, 115 Murray, and 89 Walnut Sts., Binghamton, SG100007083

Otsego County

Evangelical Lutheran Church, 4636 NY 28, Hartwick Seminary, SG100007081

Sullivan County

Hillig Castle, 165 Castle Hill Rd., Liberty vicinity, SG100007082

Ulster County

House at 272 Albany Avenue (Albany Avenue, Kingston, Ulster County, New York MPS), 272 Albany Ave., Kingston, MP100007079

OREGON

Benton County

Oregon State University Historic District (Boundary Decrease), Monroe and Orchard Ave., 30th St., Washington Wy., Jefferson Ave., 11th St., Corvallis, BC100007085

Clackamas County

Historic City Hall, 22825 Willamette Dr., West Linn, SG100007086

Multnomah County

O.K. Jeffery Aircraft Factory, 3300 NE Broadway, Portland, SG100007087

Washington County

Portland Golf Club Clubhouse, 5900 SW Scholls Ferry Rd., Portland, SG100007088

PUERTO RICO

Yauco Municipality, Public Health Unit at Yauco, (Puerto Rico Reconstruction Administration MPS), 64 Comercio St., Yauco, MP100007078

Additional documentation has been received for the following resource:

OREGON

Benton County

Oregon State University Historic District (Additional Documentation), Monroe and Orchard Ave., 30th St., Washington Wy., Jefferson Ave., 11th St., Corvallis, AD08000546

Authority: Section 60.13 of 36 CFR part 60.

Dated: September 21, 2021.

Julie H. Ernstein,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2021–21103 Filed 9–28–21; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR04093000, XXXR4081X3, RX.05940913.FY19310]

Glen Canyon Dam Adaptive Management Work Group Charter Renewal

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of charter renewal.

SUMMARY: Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior (Secretary) is renewing the charter for the Glen Canyon Dam Adaptive Management Work Group. The purpose of the Adaptive Management Work Group is to provide advice and recommendations to the Secretary concerning the operation of Glen Canyon Dam and the exercise of other authorities pursuant to applicable Federal law.

FOR FURTHER INFORMATION CONTACT: Ms. Lee Traynham, (801) 524–3752, *ltraynham@usbr.gov.*

SUPPLEMENTARY INFORMATION: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act of 1972 (Pub. L. 92–463, as amended). The certification of renewal is published below.

Certification

I hereby certify that Charter renewal of the Glen Canyon Dam Adaptive Management Work Group is in the public interest in connection with the performance of duties imposed on the Department of the Interior.

Authority: 5 U.S.C. appendix 2.

Deb Haaland,

Secretary of the Interior.

[FR Doc. 2021–21145 Filed 9–28–21; 8:45 am]

BILLING CODE 4332–90–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Criminal Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Criminal Rules; revised notice of open meeting.

SUMMARY: The Advisory Committee on Criminal Rules will hold a meeting in Washington, DC on November 4, 2021 rather than in San Diego as previously announced. The meeting is open to the public for observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.* The announcement for this meeting was previously published in the **Federal Register** on June 28, 2021.

DATES: November 4, 2021.

FOR FURTHER INFORMATION CONTACT: Scott Myers, Esq., Acting Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073)

Dated: September 23, 2021.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2021–21073 Filed 9–28–21; 8:45 am]

BILLING CODE 2210–55–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Advisory Committee on Evidence Rules; Meeting of the Judicial Conference

AGENCY: Judicial Conference of the United States.

ACTION: Advisory Committee on Evidence Rules; revised notice of open meeting.

SUMMARY: The Advisory Committee on Evidence Rules will hold a meeting in Washington, DC on November 5, 2021 rather than in San Diego as previously announced. The meeting is open to the public for observation but not participation. An agenda and supporting materials will be posted at least 7 days in advance of the meeting at: *http://www.uscourts.gov/rules-policies/records-and-archives-rules-committees/agenda-books.* The announcement for this meeting was previously published in the **Federal Register** on June 28, 2021.

DATES: November 5, 2021.

FOR FURTHER INFORMATION CONTACT: Scott Myers, Esq., Acting Chief Counsel, Rules Committee Staff, Administrative Office of the U.S. Courts, Thurgood Marshall Federal Judiciary Building, One Columbus Circle NE, Suite 7–300, Washington, DC 20544, Phone (202) 502–1820, *RulesCommittee_Secretary@ao.uscourts.gov.*

(Authority: 28 U.S.C. 2073.)

Dated: September 23, 2021.

Shelly L. Cox,

Management Analyst, Rules Committee Staff.

[FR Doc. 2021–21064 Filed 9–28–21; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–902]

Bulk Manufacturer of Controlled Substances Application: Cambridge Isotope Laboratories, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Cambridge Isotope Laboratories, Inc., has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTAL INFORMATION** listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before November 29, 2021. Such persons may also file a written request for a hearing on the application on or before November 29, 2021.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on July 29, 2021, Cambridge Isotope Laboratories, Inc., 50 Frontage Drive, Andover, Massachusetts 01810–5413, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Tetrahydrocannabinols ..	7370	I

The company plans to synthetically bulk manufacture the controlled

substance Tetrahydrocannabinols to produce analytical standards for distribution to its customers. No other activity for this drug code is authorized for this registration.

Brian S. Besser,

Acting Assistant Administrator.

[FR Doc. 2021–21101 Filed 9–28–21; 8:45 am]

BILLING CODE;P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Meeting notice.

SUMMARY: The purpose of this notice is to announce a meeting of the National Crime Prevention and Privacy Compact Council (Council) created by the National Crime Prevention and Privacy Compact Act of 1998 (Compact).

DATES: The Council will meet virtually due to COVID–19 from 1:00 p.m. (EDT) until 6:00 p.m. (EDT) on November 3, 2021.

ADDRESSES: Due to COVID–19 the meeting will be held virtually. The public will be permitted to provide comments and/or questions related to matters of the Council prior to the meeting and participate in a listen-only mode upon prior registration. Please see details in the supplemental information.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Mrs. Chasity S. Anderson, FBI Compact Officer, Biometric Technology Center, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone 304–625–2803.

SUPPLEMENTARY INFORMATION: Thus far, the Federal Government and 34 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, immigration and naturalization matters, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative federal-state system to exchange such records.

The United States Attorney General appointed 15 persons from state and federal agencies to serve on the Council. The Council will prescribe system rules and procedures for the effective and proper operation of the Interstate Identification Index system for noncriminal justice purposes.

Matters for discussion are expected to include:

(1) Automatic Notification of Corrections to Fingerprint Submissions
(2) National Fingerprint File Implementation: 2021 Lessons Learned
(3) Update on Policy Options for Cite and Release Events

The meeting will be conducted virtually due to COVID–19. The public may participate in a listen-only mode with registration via email to *AGMU@leo.gov.* Individuals must provide their name, agency, city, state, phone, and email address. Information regarding the phone access link will be provided prior to the meeting to all registered individuals.

Any member of the public wishing to file a written statement with the Council or wishing to address this session of the Council should notify the FBI Compact Officer, Mrs. Chasity S. Anderson at *compactoffice@fbi.gov,* at least 7 days prior to the start of the session. The notification should contain the individual's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed and the time needed for the presentation. Individuals will ordinarily be allowed up to 15 minutes to present a topic. The FBI Compact Officer will compile all requests and submit to the Compact Council for consideration.

Individuals requiring special accommodations should contact Ms. Anderson at *compactoffice@fbi.gov* by no later than October 20, 2021. Please note all personal registration information may be made publicly available through a Freedom of Information Act request.

Chasity S. Anderson,

FBI Compact Officer, Criminal Justice Information Services Division, Federal Bureau of Investigation.

[FR Doc. 2021–21170 Filed 9–28–21; 8:45 am]

BILLING CODE 4410–02–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings

TIME AND DATE: 4:00 p.m., Tuesday, October 5, 2021.

PLACE: Via conference call.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: Special Board of Directors meeting.

Agenda

I. Call to Order
II. Strategic Plan Recap
III. Discussion
IV. Next Steps
V. Adjournment

CONTACT PERSON FOR MORE INFORMATION: Lakeyia Thompson, Special Assistant, (202) 524–9940; *lthompson@nw.org.*

Lakeyia Thompson,

Special Assistant.

[FR Doc. 2021–21308 Filed 9–27–21; 4:15 pm]

BILLING CODE 7570–02–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–335 and 50–389; NRC–2021–0167]

Florida Power & Light Company; NextEra Energy; St. Lucie Plant, Units Nos. 1 and 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Subsequent license renewal application; opportunity to request a hearing and to petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the subsequent license renewal of Renewed Facility Operating License Nos. DPR–67 and NPF–16, which authorize Florida Power & Light Company (FPL or the applicant) to operate St. Lucie Plant (St. Lucie), Unit Nos. 1 and 2. The subsequent renewed operating licenses would authorize the applicant to operate St. Lucie for an additional 20 years beyond the period specified in each of the current renewed licenses. The current renewed operating licenses for St. Lucie expire as follows: Unit 1 on March 1, 2036, and Unit 2 on April 6, 2043. Because this application contains sensitive unclassified non-safeguards information (SUNSI), an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: A request for a hearing or petition for leave to intervene must be filed by November 29, 2021. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to SUNSI is necessary to respond to this notice must request document access by October 12, 2021.

ADDRESSES: Please refer to Docket ID NRC–2021–0167 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search

for Docket ID NRC–2021–0167. Address questions about *Regulations.gov* Docket IDs to Stacy Schumann; telephone: 301–287–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

• *Public Library:* A copy of the subsequent license renewal application for St. Lucie can be accessed at the following public library locations and website:

○ Morningside Branch of the St. Lucie County Library–, 2410 SE Morningside Blvd., Port St. Lucie, FL 34952;

○ Kilmer Branch of the St. Lucie County Library–, 101 Melody Lane, Fort Pierce, FL 34950;

○ Website: *https://www.stlucieco.gov/departments-services/a-z/library.*

FOR FURTHER INFORMATION CONTACT: Lois James, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3306; email: *Lois.James@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

By letter dated August 3, 2021 (ADAMS Package Accession No. ML21215A314), as supplemented by letter dated September 13, 2021 (ADAMS Accession No. ML21256A199), FPL filed an application pursuant to 10 CFR part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' for subsequent renewal the operating licenses for St. Lucie at 3,020 megawatt thermal each. The St. Lucie units are pressurized-water reactors designed by Combustion Engineering and are located in St. Lucie County, Florida. A notice of receipt of the subsequent license renewal application (SLRA) was published in the **Federal Register** on August 16, 2021 (86 FR 45768).

By letter dated September 24, 2021 (ADAMS Accession No. ML21246A091), the NRC staff determined that FPL submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c), to enable the staff to undertake a review of the application, and that the application is, therefore, acceptable for docketing. The current Docket Nos. 50–335 and 50–389 for Renewed Facility Operating License Nos. DPR–67 and NPF–16, respectively, will be retained. The determination to accept the SLRA for docketing does not constitute a determination that a subsequent renewed operating license should be issued and does not preclude the NRC staff from requesting additional information as the review proceeds.

Before issuance of the requested subsequent renewed licenses, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review; and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed licenses will continue to be conducted in accordance with the current licensing basis and that any changes made to the plant's current licensing basis will comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement as a supplement to the Commission's NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants,'' dated June 2013. In considering the SLRA, the Commission must find that the applicable requirements of subpart A of 10 CFR part 51 have been satisfied, and that any matters raised under 10 CFR 2.335 have been addressed. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold public scoping meetings. Detailed information regarding the environmental scoping meetings will be the subject of a separate **Federal Register** notice.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *https://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of hearing will be issued.

As required by 10 CFR 2.309(d), a petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who

fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

A State, local governmental body, Federally recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submission (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as discussed below, is granted. Detailed guidance on electronic submissions is located in the Guidance for Electronic Submissions to the NRC (ADAMS Accession No. ML13031A056) and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular

hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Information about the subsequent license renewal process can be found under the Nuclear Reactors icon at *https://www.nrc.gov/reactors/operating/licensing/renewal.html* on the NRC's website. Copies of the application to renew the operating licenses for St. Lucie are available for public inspection at the NRC's PDR, and on the NRC's website at *https://www.nrc.gov/reactors/operating/licensing/renewal/subsequent-license-renewal.html,* while the application is under review. The application may be accessed in ADAMS through the NRC Library on the internet at *https://www.nrc.gov/reading-rm/adams.html* under ADAMS Accession No. ML21215A314. As stated above, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC's PDR reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by email to *pdr.resources@nrc.gov.*

IV. Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Hearings and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: September 24, 2021.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2021–21168 Filed 9–28–21; 8:45 am]

BILLING CODE 7590–01–P

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93111; File No. SR–NASDAQ–2021–072]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 7, Section 118 of the Fee Schedule

September 23, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 14, 2021, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's pricing schedule at Equity 7, Section 118(a), as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/nasdaq/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's schedule of credits, at Equity 7, Section 118(a). Specifically, the Exchange proposes to eliminate an existing credit of $0.0030 per share for members that meet specified volume requirements on both Nasdaq and the Nasdaq Options Market (''NOM'') when adding liquidity and that qualify for Tier 4 of the MARS program on NOM.

The Exchange currently provides a $0.0030 per share executed credit for a member with displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide more than 0.65% of Consolidated Volume on Nasdaq during the month, and the member must also qualify for Tier 4 of NOM's MARS program during the month. To qualify for the Tier 4 MARS program, a Participant must have an average daily volume (''ADV'') of at least 20,000 Eligible Contracts in a month that are executed and that added liquidity.

The Exchange proposes to eliminate the credit on all tapes as it has not been effective in accomplishing its intended purpose, which is to incent members to increase their liquidity adding activity on both Nasdaq and NOM. Although the Exchange amended the credit in April 2021to incentivize members to increase the extent of their liquidity providing activity on Nasdaq,[3] no members have received this credit since the Exchange last amended the credit and it has served to neither meaningfully increase activity on the Exchange or NOM nor improve the quality of those markets since April 2021. Moreover, no member currently qualifies for the credit. The Exchange therefore proposes to eliminate it.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

The Proposal Is Reasonable

The Exchange's proposal is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''[6]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.''[7]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 91619 (April 21, 2021), 79 FR 22291, (April 27, 2021).

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[7] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. Within the foregoing context, the proposal represents a reasonable attempt by the Exchange to update its fee schedule when certain credits are ineffective in increasing its liquidity and market share relative to its competitors.

The Exchange believes that it is reasonable to eliminate its existing $0.0030 per share executed credit for a member (1) with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.65% of Consolidated Volume during the month and (2) that qualifies for Tier 4 of the MARS program on The Nasdaq Options Market during the month. As discussed above, the Exchange has observed that historically no members have received this credit, and no member currently qualifies for it. The credit has served to neither meaningfully increase activity on the Exchange or NOM nor improve the quality of those markets. Under these circumstances, the Exchange believes it is reasonable to eliminate the credit and reallocate its limited resources to more effective incentive programs.

The Exchange notes that those market participants that are dissatisfied with the proposal is free to shift their order flow to competing venues that offer more generous pricing or less stringent qualifying criteria.

The Proposal Is an Equitable Allocation of Credits

The Exchange believes its proposal will allocate its charges and credits fairly among its market participants.

The Exchange believes that is an equitable allocation to eliminate its existing $0.0030 per share executed credit for a member (1) with shares of liquidity provided in all securities through one or more of its Nasdaq Market Center MPIDs that represent more than 0.65% of Consolidated Volume during the month and (2) that qualifies for Tier 4 of the MARS program on The Nasdaq Options Market during the month. As discussed above, the Exchange has observed that historically, no member has received this credit since the Exchange amended the credit in April 2021, and no member currently qualifies for it. The credit has served to neither meaningfully increase activity on the Exchange or NOM nor improve the quality of those markets. Under these circumstances, the Exchange believes it is equitable to eliminate the credit and reallocate its limited resources to more effective incentive programs.

Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that its proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its volume-based tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it enhances price discovery and improves the overall quality of the equity markets.

The proposal to eliminate one of the Exchange's transaction credits is not unfairly discriminatory because no members have received this credit since March 2021 and currently, no member qualifies for the credit, such that its elimination is fair and will have limited impact. The Exchange has limited resources with which to apply to incentives, and it must allocate those limited resources in a manner that prioritizes areas of greatest need and potential effect.

Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

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.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage.

The proposed elimination of one of the Exchange's existing transaction credits will have minimal competitive effect insofar as the credit has not been utilized by any member since March 2021. The Exchange notes that it offers other means to attain similar credit tiers.

The Exchange notes that its members are free to trade on other venues to the extent they believe that the remaining credits are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its credits and fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits and fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credit or fee changes in this market may impose any burden on competition is extremely limited.

The proposed eliminated credit is reflective of this competition because, even as one of the largest U.S. equities exchanges by volume, the Exchange has less than 20% market share, which in most markets could hardly be categorized as having enough market power to burden competition. Moreover, as noted above, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes. This is in addition to free flow of order flow to and among off-exchange venues which comprises upwards of 50% of industry volume.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,[8] the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2021–072 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2021–072. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2021–072 and should be submitted on or before October 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–21111 Filed 9–28–21; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93108; File No. SR–NYSEArca–2021–81]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reflect an Amendment to the Application and Exemptive Order Governing the Fidelity Women's Leadership ETF and Fidelity Sustainability U.S. Equity ETF

September 23, 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 September 13, 2021, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to reflect an amendment to the Application and Exemptive Order governing the Fidelity Women's Leadership ETF and Fidelity Sustainability U.S. Equity ETF that are listed and traded on the Exchange under NYSE Arca Rule 8.601–E. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange adopted NYSE Arca Rule 8.601–E for the purpose of permitting the listing and trading, or trading pursuant to unlisted trading privileges (''UTP''), of Active Proxy Portfolio Shares, which are securities issued by an actively managed open-end investment management company.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 89185 (June 29, 2020), 85 FR 40328 (July 6, 2020) (SR–NYSEArca–2019–95). Rule 8.601–E(c)(1) provides that ''[t]he term ''Active Proxy Portfolio Share'' means a security that (a) is issued by a investment company registered under the Investment Company Act of 1940 (''Investment Company'') organized as an open-end management investment company that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies; (b) is issued in a specified minimum number of shares, or multiples thereof, in return for a deposit by the purchaser of the Proxy Portfolio and/or cash with a value equal to the next determined net asset value (''NAV''); (c) when aggregated in the same specified minimum number of Active Proxy Portfolio Shares, or multiples thereof, may be redeemed at a holder's

Continued

Commentary .01 to Rule 8.601–E requires the Exchange to file separate proposals under Section 19(b) of the Act before listing and trading any series of Active Proxy Portfolio Shares on the Exchange. Pursuant to this provision, the Exchange submitted a proposal to list and trade shares (''Shares'') of Active Proxy Portfolio Shares of the Fidelity Women's Leadership ETF and Fidelity Sustainability U.S. Equity ETF [5] (each a ''Fund'' and, collectively, the ''Funds'') on the Exchange under NYSE Arca Rule 8.601–E: T. The Exchange proposes to reflect an amendment to the Application and Exemptive Order (as defined below) governing the listing and trading of the Funds, as follows.

Fidelity Beach Street Trust (''Beach Street''), Fidelity Management & Research Company (''FMR''), and Fidelity Distributors Corporation (''FDC''), filed a ninth amended application for an order under Section 6(c) of the 1940 Act for exemptions from various provisions of the 1940 Act and rules thereunder (the ''Prior Application'').[6] On December 10, 2019, the Commission issued an order (the ''Prior Exemptive Order'') under the 1940 Act granting the exemptions requested in the Application.[7]

Under the Prior Exemptive Order, the Funds are required to publish a basket of securities and cash that, while different from a Fund's portfolio, is designed to closely track its daily performance (''Proxy Portfolio'').[8] The Prior Application stated that the Proxy Portfolio is comprised of (1) select recently disclosed portfolio holdings (''Strategy Components''); (2) liquid ETFs that convey information about the types of instruments in which the fund invests that are not otherwise fully represented by Strategy Components (''Representative ETFs''); and (3) cash and cash equivalents. As set forth in the Notice, investments made by the Funds will comply with the conditions set forth in the Prior Application and the Prior Exemptive Order.[9]

On October 30, 2020, as amended on April 2, 2021, June 11, 2021 and June 30, 2021, Beach Street, FMR, FDC and Fidelity Covington Trust [10] (together, ''Fidelity'') sought to amend the Prior Order to, among other things, permit the Funds to include select securities from the universe from which a Fund's investments are selected such as a broad-based market index (''Investment Universe'') in the Fund's Proxy Portfolio (the ''Updated Application'').[11]

On August 5, 2021, the Commission issued an order permitting the Funds to include select securities from a Fund's Investment Universe in the Fund's Proxy Portfolio (the ''Updated Exemptive Order'').[12] Accordingly, investments made by the Fidelity Women's Leadership ETF and Fidelity Sustainability U.S. Equity ETF will comply with this condition in the Updated Application and the Updated Exemptive Order.

Except for the change noted above, all other representations made in the respective rule filings remain unchanged and will continue to constitute continuing listing requirements for the Funds. The Funds will also continue to comply with the requirements of Rule 8.601–E.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[15]

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. The proposed revision is intended to ensure that each of the Funds will comply with the conditions set forth in the Updated Application and the Updated Exemptive Order that permits the Funds to use Creation Baskets that include instruments that are not included, or are included with different weightings, in the Fund's Proxy Portfolio. The proposed rule change would permit the Funds to operate consistent with this updated condition in the Updated Application and the Updated Exemptive Order. Except for the changes noted above, all other representations made in the respective rule filings remain unchanged and, as noted, will continue to constitute continuing listing requirements for the Funds.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. As noted, the purpose of the filing is to reflect an amendment to the Application and Exemptive Order governing the listing and trading of these Funds. To the extent that the proposed rule change would continue to permit listing and trading of another type of actively-managed ETF that has characteristics different from existing actively-managed and index ETFs, the Exchange believes that the proposal would benefit of investors by continuing to promote competition among various ETF products.

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

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on

request in return for the Proxy Portfolio and/or cash to the holder by the issuer with a value equal to the next determined NAV; and (d) the portfolio holdings for which are disclosed within at least 60 days following the end of every fiscal quarter.'' Rule 8.601–E(c)(2) provides that ''[t]he term ''Actual Portfolio'' means the identities and quantities of the securities and other assets held by the Investment Company that shall form the basis for the Investment Company's calculation of NAV at the end of the business day.'' Rule 8.601–E(c)(3) provides that ''[t]he term ''Proxy Portfolio'' means a specified portfolio of securities, other financial instruments and/or cash designed to track closely the daily performance of the Actual Portfolio of a series of Active Proxy Portfolio Shares as provided in the exemptive relief pursuant to the Investment Company Act of 1940 applicable to such series.''

[5] On April 14, 2021, the Commission published the notice of filing and immediate effectiveness relating to the listing and trading of shares of the Fidelity Women's Leadership ETF and Fidelity Sustainability U.S. Equity ETF. *See* Securities Exchange Act Release No. 91514 (April 8, 2021), 86 FR 19657 (April 14, 2021) (SR–NYSEArca–2021–23) (Notice).

[6] *See* File No. 812–14364, dated November 8, 2019.

[7] *See* Investment Company Act Release No. 33712, December 10, 2019.

[8] The Funds use the term ''Tracking Basket.'' ''Tracking Basket'' is the Proxy Portfolio for purposes of Rule 8.601–E(c)(3). *See* Notice, 86 FR 19659, n. 10.

[9] *See* Notice, 86 FR 19658, n. 8.

[10] Fidelity Covington Trust, a business trust under the laws of The Commonwealth of Massachusetts registered with the Commission as an open-end management investment company, was not part of the Prior Application.

[11] *See* File No. 812–15175.

[12] *See* Investment Company Act Release No. 34350, August 5, 2021.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] The Exchange represents that, for initial and continued listing, the Fund will be in compliance with Rule 10A–3 under the Act, as provided by NYSE Arca Rule 5.3–E.

which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [16] and Rule 19b–4(f)(6) thereunder.[17]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [18] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange notes that the Funds are currently listed and traded on the Exchange, and that pursuant to the proposed rule change, the Funds will comply with the provision discussed above as set forth in the Updated Application and the Updated Exemptive Order. Accordingly, this proposed rule change raises no novel regulatory issues. For these reasons, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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–NYSEArca–2021–81 on the subject line.

Paper Comments

- Send paper comments in triplicate to: Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2021–81. 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–NYSEArca–2021–81 and should be submitted on or before October 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

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[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93107; File Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSENAT–2021–05, SR–NYSECHX–2021–04]

Self-Regulatory Organizations; New York Stock Exchange LLC; NYSE American LLC; NYSE Arca, Inc.; NYSE National, Inc.; NYSE Chicago, Inc.; Notice of Designation of a Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change To Amend Each of the Exchange's Fee Schedules Related to Co-Location

September 23, 2021.

On March 10, 2021, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc., and NYSE Chicago, Inc. each filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide Users with access to the systems and connectivity to the data feeds of several third parties and establish associated fees.[3] Each proposed rule change was immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[4] The proposed rule changes were published for comment in the **Federal Register** on March 29, 2021.[5] On May 7, 2021, the Commission, pursuant to Section 19(b)(3)(C) of the Act [6] temporarily suspended File Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSENAT–2021–05, and SR–NYSECHX–2021–04; and (2) instituted proceedings to determine whether to approve or disapprove File Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSENAT–2021–05, and SR–NYSECHX–2021–04.[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE National, Inc, and NYSE Chicago, Inc. are collectively referred to herein as ''NYSE'' or the ''Exchanges.''

[4] 15 U.S.C. 78s(b)(3)(A).

[5] *See* Securities Exchange Act Release Nos. 91386 (March 23, 2021), 86 FR 16410 (March 29, 2021); 91387 (March 23, 2021), 86 FR 16417 (March 29, 2021); 91388 (March 23, 2021), 86 FR 16433 (March 29, 2021); 91389 (March 23, 2021), 86 FR 16403 (March 29, 2021); 91390 (March 23, 2021), 86 FR 16424 (March 29, 2021) (collectively, the ''Notices'').

[6] 15 U.S.C. 78s(b)(3)(C).

[7] *See* Securities Exchange Act Release No. 91790 (May 7, 2021), 86 FR 26242 (May 13, 2021) (SR–

Continued

The Commission received two comment letters on the proposal from the Exchanges.[8]

Section 19(b)(2) of the Act[9] provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule changes were published for comment in the **Federal Register** on March 29, 2021.[10] The 180th day after publication of the Notices is September 25, 2021. The Commission is extending the time period for approving or disapproving the proposal for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule changes along with the comments received. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[11] designates November 24, 2021 as the date by which the Commission should either approve or disapprove the proposed rule changes (File Nos. SR–NYSE–2021–15, SR–NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSENAT–2021–05, NYSECHX–2021–04).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–21109 Filed 9–28–21; 8:45 am]

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NYSE–2021–15, NYSEAMER–2021–13, SR–NYSEArca–2021–15, SR–NYSENAT–2021–05, SR–NYSECHX–2021–04).

[8] *See,* respectively, letter dated June 21, 2021 from Elizabeth K. King, Chief Regulatory Officer, ICE, General Counsel and Corporate Secretary, NYSE to Vanessa Countryman, Secretary, Commission; and letter dated September 7, 2021 from Elizabeth K. King, Chief Regulatory Office, ICE, General Counsel and Corporate Secretary, NYSE to Vanessa Countryman, Secretary, Commission. All comments received by the Commission on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-nyse-2021-15/srnyse202115.htm.* NYSE filed comment letters on behalf of all of the Exchanges.

[9] 15 U.S.C. 78s(b)(2).

[10] *See supra* note 5.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93114; File No. 4–575]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amended Plan for the Allocation of Regulatory Responsibilities Among the Financial Industry Regulatory Authority, Inc., The Nasdaq Stock Market LLC, and Nasdaq BX, Inc.

September 23, 2021.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility (''Plan'') filed on September 2, 2021, pursuant to Rule 17d–2 of the Act,[2] by the Financial Industry Regulatory Authority, Inc. (''FINRA''), The Nasdaq Stock Market LLC (''Nasdaq''), and Nasdaq BX, Inc. (''BX'') (collectively, ''Participating Organizations'' or ''parties''). This agreement amends and restates the agreement entered into between FINRA and BX on December 5, 2008, entitled ''Agreement between Financial Industry Regulatory Authority, Inc. and Boston Stock Exchange, Incorporated pursuant to Rule 17d–2 under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter, and the agreement entered into between FINRA and Nasdaq approved by the Commission on July 12, 2006, entitled ''Agreement between the National Association of Securities Dealers, Inc. and The Nasdaq Stock Market LLC Pursuant to Section 17(d) and Rule 17d–2,'' and any subsequent amendments thereafter.

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and opportunity for comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On January 8, 2009, the Commission declared effective the Plan entered into between FINRA and the Boston Stock Exchange, Incorporated (n/k/a Nasdaq BX, Inc. (''BX'')) for allocating regulatory responsibility pursuant to Rule 17d–2.[11] The Plan is intended to reduce regulatory duplication for firms that are common members of FINRA and BX by allocating regulatory responsibility with respect to certain applicable laws, rules, and regulations that are common among them. Included in the Plan is an exhibit that lists every BX rule for which FINRA bears responsibility under the Plan for overseeing and enforcing with respect to BX members that are also members of FINRA and the associated persons therewith (''Certification'').

III. Proposed Amendment to the Plan

On September 2, 2021, the parties submitted a proposed amendment to the Plan (''Amended Plan''). The primary purpose of the Amended Plan is to allocate surveillance, investigation, and enforcement responsibilities for Rule 14e–4 under the Act, to reflect the name change of Boston Stock Exchange, Incorporated to Nasdaq BX, Inc., and to add Nasdaq as a Participant to the Plan.[12] The text of the proposed Amended Plan, which replaces and supersedes the current Plan in its entirety, is as follows:

* * * * *

Agreement [Between] *Among* Financial Industry Regulatory Authority, Inc., *The NASDAQ Stock Market LLC* and [Boston Stock Exchange, Incorporated] *NASDAQ BX, Inc.* Pursuant to Rule 17d–2 Under the Securities Exchange Act of 1934

This Agreement, by and [between]*among* the Financial Industry Regulatory Authority, Inc. (''FINRA''), *The Nasdaq Stock Market LLC (''Nasdaq'')* and [Boston Stock Exchange, Incorporated]*Nasdaq BX, Inc.* (''BX''), is made this [5th] *30th* day of [December]*August,* [2008]*2021* (the ''Agreement''), pursuant to Section 17(d) of the Securities Exchange Act of 1934 (the ''Exchange Act'') and Rule 17d–2 thereunder, which permits agreements between self-regulatory organizations to allocate regulatory responsibility to eliminate regulatory duplication. FINRA, *Nasdaq* and BX may be referred to individually as a ''party'' and together as the ''parties.''

This Agreement amends and restates the agreement entered into between FINRA and BX on December 5, 2008, entitled ''Agreement between Financial Industry Regulatory Authority, Inc. and Boston Stock Exchange, Incorporated pursuant to Rule 17d–2 under the Securities Exchange Act of 1934,'' and any subsequent amendments thereafter and the agreement entered into between FINRA and Nasdaq approved by the SEC on July 12, 2006, entitled ''Agreement between the National Association of Securities Dealers, Inc. and The Nasdaq Stock Market LLC Pursuant to Section 17(d) and Rule 17d–2,'' and any subsequent amendments thereafter.

Whereas, FINRA, *Nasdaq* and BX desire to reduce duplication in the examination, of their [Dual]*Common* Members (as defined herein) and in the filing and processing of certain registration and membership records; and

Whereas, FINRA, *Nasdaq* and BX desire to execute an agreement covering such subjects pursuant to the provisions of Rule 17d–2 under the Exchange Act and to file such agreement with the *U.S.* Securities and Exchange Commission (the ''SEC'' or ''Commission'') for its approval.

Now, therefore, in consideration of the mutual covenants contained hereinafter, FINRA*, Nasdaq* and BX hereby agree as follows:

Definitions. Unless otherwise defined in this Agreement or the context otherwise requires, the terms used in this Agreement shall have the same meaning as they have under the Exchange Act and the rules and regulations thereunder. As used in this Agreement, the following terms shall have the following meanings:

(a) ''*Nasdaq Rules*''*,* ''*BX Rules*'' or ''*FINRA Rules*'' shall mean: (i) The rules of *Nasdaq, (ii) the rules of* BX, or (ii*i*) the rules of FINRA, respectively, as the rules of an exchange or association are defined in Exchange Act Section 3(a)(27).

(b) ''*Common Rules*'' shall mean *Nasdaq Rules and* BX Rules that are substantially similar to the applicable FINRA Rules and certain provisions of the Exchange Act and SEC rules set forth on *Exhibit 1* in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the provision or rule, or a [Dual]*Common* Member's activity, conduct, or output in relation to such provision or rule; provided, however, Common Rules shall not include the application of the SEC, *Nasdaq,* BX or FINRA rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among [the American Stock Exchange, LLC, BATS Exchange, Inc., Boston Stock Exchange, Inc., CBOE Stock Exchange, LLC, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Arca Inc., NYSE Regulation, Inc., and Philadelphia Stock Exchange, Inc.] *Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., MEMX, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., Investors Exchange LLC and Long-Term Stock Exchange, Inc.* approved by the Commission on [October 17, 2008]*September 23, 2020. Common Rules shall not include any provisions regarding: (i) Notice, reporting or any other filings made directly to or from Nasdaq or BX; (ii) incorporation by reference of other Nasdaq or BX Rules that are not Common Rules; (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion including, but not limited to exercise of exemptive authority by Nasdaq or BX; (iv) prior written approval of Nasdaq or BX; and (v) payment of fees or fines to Nasdaq or BX.*

(c) ''*[Dual]Common Members*'' shall mean those *members of FINRA and a member of at least one of Nasdaq or* BX [members that are also members of FINRA] and the associated persons therewith.

(d) ''*Effective Date*'' shall have the meaning set forth in paragraph [14]*13.*

(e) ''*Enforcement Responsibilities*'' shall mean the conduct of appropriate proceedings, in accordance with FINRA's Code of Procedure (the [NASD] Rule 9000 Series) and other applicable FINRA procedural rules, to determine whether violations of Common Rules have occurred, and if such violations are deemed to have occurred, the imposition of appropriate sanctions as specified under FINRA's Code of Procedure and sanctions guidelines.

(f) ''*Regulatory Responsibilities*'' shall mean the examination responsibilities and Enforcement Responsibilities relating to compliance by the [Dual]*Common* Members with the Common Rules and the provisions of the Exchange Act and the rules and regulations thereunder, and other applicable laws, rules and regulations, each as set forth on *Exhibit 1* attached hereto. *The term ''Regulatory Responsibilities'' shall also include the surveillance, investigation and Enforcement Responsibilities relating to compliance by Common Members with Rule 14e–4 of the Securities Exchange Act (''Rule*

[11] *See* Securities Exchange Act Release No. 59218 (January 8, 2009), 74 FR 2143 (January 14, 2009).

[12] The Amended Plan replaces and supersedes the agreement between FINRA and Nasdaq. *See* Securities Exchange Act Release No. 54136 (July 12, 2006), 71 FR 40759 (July 18, 2006).

14e–4''), with a focus on the standardized call option provision of Rule 14e–4(a)(1)(ii)(D).

2. Regulatory [and Enforcement] Responsibilities. FINRA shall assume Regulatory Responsibilities [and Enforcement Responsibilities] for [Dual]*Common* Members. Attached as *Exhibit 1* to this Agreement and made part hereof, *Nasdaq and* BX furnished FINRA with a current list of Common Rules and certified to FINRA that such rules that are *Nasdaq Rules and* BX Rules are substantially similar to the corresponding FINRA Rules (the ''Certification''). FINRA hereby agrees that the rules listed in the Certification are Common Rules as defined in this Agreement. Each year following the Effective Date of this Agreement, or more frequently if required by changes in either the rules of *Nasdaq,* BX or FINRA, *Nasdaq and* BX shall submit an updated list of Common Rules to FINRA for review which shall add *Nasdaq Rules and* BX Rules not included in the current list of Common Rules that qualify as Common Rules as defined in this Agreement; delete *Nasdaq Rules and* BX Rules included in the current list of Common Rules that no longer qualify as Common Rules as defined in this Agreement; and confirm that the remaining rules on the current list of Common Rules continue to be *Nasdaq Rules and* BX Rules that qualify as Common Rules as defined in this Agreement. Within 30 days of receipt of such updated list, FINRA shall confirm in writing whether the rules listed in any updated list are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibilities'' does not include, and *Nasdaq and* BX shall retain full responsibility for (unless otherwise addressed by separate agreement or rule) (collectively, the ''Retained Responsibilities'') the following:

(a) [S]*s*urveillance, examination, investigation and enforcement with respect to trading activities or practices involving *Nasdaq's or* BX's own marketplace*;*

(b) registration pursuant to [its]*Nasdaq's or BX's* applicable rules of associated persons (*i.e.,* registration rules that are not Common Rules);

(c) discharge of [its]*Nasdaq's or BX's* duties and obligations as a Designated Examining Authority pursuant to Rule 17d–1 under the Exchange Act; and

(d) any *Nasdaq Rules and* BX Rules that are not Common Rules.

[3.] Dual Members. Prior to the Effective Date, BX shall furnish FINRA with a current list of Common Members, which shall be updated no less frequently than once each quarter.]

[4.]*3.* No Charge. There shall be no charge to *Nasdaq and* BX by FINRA for performing the Regulatory Responsibilities [and Enforcement Responsibilities] under this Agreement except as hereinafter provided]. FINRA shall provide *Nasdaq and* BX with ninety (90) days advance written notice in the event FINRA decides to impose any charges to *Nasdaq and* BX for performing the Regulatory Responsibilities under this Agreement. If FINRA determines to impose a charge, *Nasdaq and* BX shall have the right at the time of the imposition of such charge to terminate this Agreement; provided, however, that FINRA's Regulatory Responsibilities under this Agreement shall continue until the Commission approves the termination of this Agreement.

[5.]*4.* Reassignment of Regulatory Responsibilities. Notwithstanding any provision hereof, this Agreement shall be subject to any statute, or any rule or order of the Commission reassigning Regulatory Responsibilities between self-regulatory organizations. To the extent such action is inconsistent with this Agreement, such action shall supersede the provisions hereof to the extent necessary for them to be properly effectuated and the provisions hereof in that respect shall be null and void.

[6.]*5.* Notification of Violations. In the event that FINRA becomes aware of apparent violations of any *Nasdaq Rules or* BX Rules, which are not listed as Common Rules, discovered pursuant to the performance of the Regulatory Responsibilities assumed hereunder, FINRA shall notify *Nasdaq and* BX of those apparent violations for such response as *Nasdaq and* BX deems appropriate. In the event that *Nasdaq or* BX becomes aware of apparent violations of any Common Rules, discovered pursuant to the performance of the Retained Responsibilities, *Nasdaq and* BX shall notify FINRA of those apparent violations and such matters shall be handled by FINRA as provided in this Agreement. Each party agrees to make available promptly all files, records and witnesses necessary to assist the other in its investigation or proceedings. Apparent violations of Common Rules, FINRA Rules, federal securities laws, and rules and regulations thereunder, shall be processed by, and enforcement proceedings in respect thereto shall be conducted by FINRA as provided hereinbefore; provided, however, that in the event a [Dual]*Common* Member is the subject of an investigation relating to a transaction on *Nasdaq or* BX, *Nasdaq and* BX*, at each party's* [may in its] discretion assume concurrent jurisdiction and responsibility.

[7.]*6.* Continued Assistance.

(a) FINRA shall make available to *Nasdaq and* BX all information obtained by FINRA in the performance by it of the Regulatory Responsibilities hereunder with respect to the [Dual]*Common* Members subject to this Agreement. In particular, and not in limitation of the foregoing, FINRA shall furnish *Nasdaq and* BX any information it obtains about [Dual]*Common* Members which reflects adversely on their financial condition. *Nasdaq and* BX shall make available to FINRA any information coming to [its]*their* attention that reflects adversely on the financial condition of [Dual]*Common* Members or indicates possible violations of applicable laws, rules or regulations by such firms.

(b) The parties agree that documents or information shared shall be held in confidence, and used only for the purposes of carrying out their respective regulatory obligations. Neither party shall assert regulatory or other privileges as against the other with respect to documents or information that is required to be shared pursuant to this Agreement.

(c) The sharing of documents or information between the parties pursuant to this Agreement shall not be deemed a waiver as against third parties of regulatory or other privileges relating to the discovery of documents or information.

[8.]*7.* [Dual]*Common* Member Applications.

(a) [Dual]*Common* Members subject to this Agreement shall be required to submit, and FINRA shall be responsible for processing and acting upon all applications submitted on behalf of allied persons, partners, officers, registered personnel and any other person required to be approved by the rules of [both]*Nasdaq,* BX and FINRA or associated with [Dual]*Common* Members thereof. Upon request, FINRA shall advise *Nasdaq and* BX of any changes of allied members, partners, officers, registered personnel and other persons required to be approved by the rules of [both]*Nasdaq,* BX and FINRA.

(b) [Dual]*Common* Members shall be required to send to FINRA all letters, termination notices or other material respecting the individuals listed in paragraph [8]*7*(a).

(c) When as a result of processing such submissions FINRA becomes aware of a statutory disqualification as defined in the Exchange Act with respect to a [Dual]*Common* Member, FINRA shall determine pursuant to Sections 15A(g) and/or Section 6(c) of the Exchange Act the acceptability or continued applicability of the person to whom such disqualification applies and keep *Nasdaq and* BX advised of its actions in this regard for such subsequent proceedings as *Nasdaq and* BX may initiate.

(d) Notwithstanding the foregoing, FINRA shall not review the membership application, reports, filings, fingerprint cards, notices, or other writings filed to determine if such documentation submitted by a broker or dealer, or a person associated therewith or other persons required to register or qualify by examination meets the *Nasdaq or* BX requirements for general membership or for specified categories of membership or participation in *Nasdaq or* BX, such as Equities Market Maker, Equities ECN, Order Entry Firm, or any similar type of *Nasdaq or* BX membership or participation that is created after this Agreement is executed. FINRA shall not review applications or other documentation filed to request a change in the rights or status described in this paragraph [8]*7*(d), including termination or limitation on activities, of a member or a participant of *Nasdaq or* BX, or a person associated with, or requesting association with, a member or participant of *Nasdaq or* BX.

[9.]*8.* Branch Office Information. FINRA shall also be responsible for processing and, if required, acting upon all requests for the opening, address changes, and terminations of branch offices by [Dual]*Common* Members and any other applications required of [Dual]*Common* Members with respect to the Common Rules as they may be amended from time to time. Upon request, FINRA shall advise *Nasdaq and* BX of the opening, address change and termination of branch

and main offices of [Dual]*Common* Members and the names of such branch office managers.

[10.]*9.* Customer Complaints. *Nasdaq and* BX shall forward to FINRA copies of all customer complaints involving [Dual]*Common* Members received by *Nasdaq and* BX relating to FINRA's Regulatory Responsibilities under this Agreement. It shall be FINRA's responsibility to review and take appropriate action in respect to such complaints.

[11.]*10.* Advertising. FINRA shall assume responsibility to review the advertising of [Dual]*Common* Members subject to the Agreement, provided that such material is filed with FINRA in accordance with FINRA's filing procedures and is accompanied with any applicable filing fees set forth in FINRA Rules.

[12.]*11.* No Restrictions on Regulatory Action. Nothing contained in this Agreement shall restrict or in any way encumber the right of either party to conduct its own independent or concurrent investigation, examination or enforcement proceeding of or against [Dual]*Common* Members, as either party, in its sole discretion, shall deem appropriate or necessary.

[13.]*12.* Termination. This Agreement may be terminated by *Nasdaq,* BX or FINRA at any time upon the approval of the Commission after one (1) year's written notice to the other party, except as provided in paragraph [4]*3.*

[14.]*13.* Effective Date. This Agreement shall be effective upon approval of the Commission.

[15.]*14.* Arbitration. In the event of a dispute between the parties as to the operation of this Agreement, *Nasdaq,* BX and FINRA hereby agree that any such dispute shall be settled by arbitration in Washington, DC in accordance with the rules of the American Arbitration Association then in effect, or such other procedures as the parties may mutually agree upon. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction. Each party acknowledges that the timely and complete performance of its obligations pursuant to this Agreement is critical to the business and operations of the other party. In the event of a dispute between the parties, the parties shall continue to perform their respective obligations under this Agreement in good faith during the resolution of such dispute unless and until this Agreement is terminated in accordance with its provisions. Nothing in this Section [15]*14* shall interfere with a party's right to terminate this Agreement as set forth herein.

[16. Notification of Members. BX and FINRA shall notify Dual Members of this Agreement after the Effective Date by means of a uniform joint notice.]

[17.]*15.* Amendment. This Agreement may be amended in writing duly approved by each party. All such amendments must be filed with and approved by the Commission before they become effective.

[18.]*16.* Limitation of Liability. [Neither FINRA nor BX]*None of the parties* nor any of their respective directors, governors, officers or employees shall be liable to [the]*any* other party to this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibilities as provided hereby or for the failure to provide any such responsibility, except with respect to such liability, loss or damages as shall have been suffered by *any party* [one or the other of FINRA or BX] and caused by the willful misconduct of [the other]*another* party or their respective directors, governors, officers or employees. No warranties, express or implied, are made by [FINRA or BX]*any party hereto* with respect to any of the responsibilities to be performed by [each of] them hereunder.

[19.]*17.* Relief from Responsibility. Pursuant to Sections 17(d)(1)(A) and 19(g) of the Exchange Act and Rule 17d–2 thereunder, FINRA*, Nasdaq* and BX join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve *Nasdaq and* BX of any and all responsibilities with respect to matters allocated to FINRA pursuant to this Agreement; provided, however, that this Agreement shall not be effective until the Effective Date.

[20.]*18.* Severability. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

[21.]*19. Separate Agreement. This Agreement is wholly separate from (1) the multiparty Agreement made pursuant to Rule 170d–2 of the Exchange Act among NYSE American LLC, Cboe BZX Exchange, Inc., the Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., NYSE Arca, Inc., The Nasdaq Stock Market LLC, BOX Exchange LLC, Nasdaq BX, Inc., Nasdaq PHLX LLC, Miami International Securities Exchange, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, MIAX PEARL, LLC, and MIAX Emerald, LLC approved by the Commission on February 12, 2019 involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to the conduct by broker-dealers of accounts for listed options, index warrants, currency index warrants and currency warrants or (2) the multiparty Agreement made pursuant to Rule 17d–2 of the Exchange Act among NYSE American LLC, Cboe BZX Exchange, Inc., the Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe Exchange, Inc., Nasdaq ISE, LLC, Financial Industry Regulatory Authority, Inc., NYSE Arca, Inc., The Nasdaq Stock Market LLC, BOX Exchange LLC, Nasdaq BX, Inc., Nasdaq PHLX LLC, Miami International Securities Exchange, LLC, Nasdaq GEMX, LLC, Nasdaq MRX, LLC, MIAX PEARL, LLC, and MIAX Emerald, LLC approved by the Commission on February 11, 2019 involving options-related market surveillance matters and such agreements as may be amended from time to time.*

[22.]*20.* Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

Exhibit 1

[Valid beginning December 15, 2008]

NOTE: The entire existing table of rules should be deleted and replaced with the table below and for the remainder of the exhibit new text is underlined and deleted text is in brackets.

***NASDAQ AND BX* RULES CERTIFICATION FOR 17d–2 AGREEMENT WITH FINRA**

The Nasdaq Stock Market LLC (''Nasdaq'') and [Boston Stock Exchange, Incorporated]*Nasdaq BX, Inc.* (''BX'') hereby certify[ies] that the requirements contained in the *Nasdaq and* BX rules listed below are identical to, or substantially similar to, the [NASD and] FINRA rules noted below:

#*Common Rules shall not include provisions regarding (i) notice, reporting or any other filings made directly to or from Nasdaq or BX, (ii) incorporation by reference to other Nasdaq or BX Rules that are not Common Rules, (iii) exercise of discretion in a manner that differs from FINRA's exercise of discretion, including but not limited to exercise of exemptive authority, by Nasdaq or BX, (iv) prior written approval of Nasdaq or BX, and (v) payment of fees or fines to Nasdaq or BX.*

BX Rule	Nasdaq Rule	FINRA Rule
General 2, Section 15. Business Continuity Plans#.	General 2, Section 15. Business Continuity Plans#.	4370. Business Continuity Plans.
General 2, Section 10. Executive Representative.	General 2, Section 10. Executive Representative.	4517. Member Filing and Contact Information Requirements.
General 3, Rule 1002(b) Qualifications of Exchange Members and Associated Persons; Registration of Branch Offices and Designation of Office of Supervisory Jurisdiction#.	General 3, Rule 1002(b) Qualifications of Exchange Members and Associated Persons; Registration of Branch Offices and Designation of Office of Supervisory Jurisdiction#.	FINRA Bylaws Article III, Sec. 1.

BX Rule	Nasdaq Rule	FINRA Rule
General 3, Rule 1002(d). Registration of Branch Offices and Designation of Office of Supervisory Jurisdiction#.	General 3, Rule 1002(d). Registration of Branch Offices and Designation of Office of Supervisory Jurisdiction#.	3110(a)(3) Supervision and SM .01 and .02 Supervision* and FINRA By-Laws Article IV, Sec. 8.
General 3, 1012(c)(1). Duty to Ensure the Accuracy, Completeness, and Current Nature of Membership Information Filed with the Exchange#.	General 3, Rule 1012(c)(1). Duty to Ensure the Accuracy, Completeness, and Current Nature of Membership Information Filed with the Exchange#.	1122. Filing of Misleading Information as to Membership or Registration; FINRA Bylaws Article IV, sec. 1(c) of the By-Laws.
General 4, Section 1, 1210. Registration Requirements#.	General 4, Section 1, 1210. Registration Requirements#.	1210. Registration Requirements.
General 4, Section 1, 1220. Registration Categories[1]#.	General 4, Section 1, 1220. Registration Categories[1]#.	1220. Registration Categories.
General 4, Section 1, 1220.06. Eliminated Registration Categories[1].	General 4, Section 1, 1220.06. Eliminated Registration Categories[2].	1220.06. Eliminated Registration Categories.

[1] FINRA shall only have Regulatory Responsibilities regarding BX General 4, Section 1220 to the extent that BX recognizes the same categories of limited principal and representative registration as the BX Rule, by incorporating Nasdaq General 4, Section 1220, does not recognize registration related to investment banking, research, government securities, investment company and variable contracts products, direct participation programs, private securities offerings, and operations professional.

[2] FINRA shall only have Regulatory Responsibilities regarding Nasdaq General 4, Section 1220 to the extent that Nasdaq recognizes the same categories of limited principal and representative registration as Nasdaq General 4, Section 1220 does not recognize registration related to investment banking, research, government securities, investment company and variable contracts products, direct participation programs, private securities offerings, and operations professional.

General 4, Section 1, Rule 1230(1)–(2)(D) Associated Persons Exempt from Registration#.	General 4, Section 1, Rule 1230(1)–(2)(D) Associated Persons Exempt from Registration#.	1230. Associated Persons Exempt from Registration.
General 4, Section 1, 1240. Continuing Education Requirements.	General 4, Section 1, 1240. Continuing Education Requirements.	1240. Continuing Education Requirements.
General 4, Section 1, 1250. Electronic Filing Requirements for Uniform Forms#.	General 4, Section 1, 1250. Electronic Filing Requirements for Uniform Forms#.	1010. Electronic Filing Requirements for Uniform Forms and FINRA Bylaws Article V, Section 2.
Equity 5, Section 1. Definitions	Equity 5, Section 1. Definitions	7410. Definitions.
Equity 5, Section 2. Applicability	Equity 5, Section 2. Applicability	7420. Applicability.
Equity 5, Section 3. Synchronization of Member Business Clocks.	Equity 5, Section 3. Synchronization of Member Business Clocks.	7430. Synchronization of Member Business Clocks.
Equity 5, Section 4. Recording of Order Information.	Equity 5, Section 4. Recording of Order Information.	7440. Recording of Order Information.
Equity 5, Section 5. Order Data Transmission Requirements.	Equity 5, Section 5. Order Data Transmission Requirements.	7450. Order Data Transmission Requirements.
Equity 5, Section 6. Violation of Order Audit Trail System Rules.	Equity 5, Section 6. Violation of Order Audit Trail System Rules.	7460. Violation of Order Audit Trail System Rules.
General 9, Section 1(a). Standards of Commercial Honor and Principles of Trade.	General 9, Section 1(a). Standards of Commercial Honor and Principles of Trade.	2010. Standards of Commercial Honor and Principles of Trade.*
General 9, Section 1(b). Trading Ahead of Customer Orders.	General 9, Section 1(b). Prohibition Against Trading Ahead of Customer Orders.	5320. Prohibition Against Trading Ahead of Customer Orders.
General 9, Section 1(c). Front Running Policy	General 9, Section 1(c). Front Running Policy	5270. Front Running of Block Transactions.
General 9, Section 1(d). Trading Ahead of Research Reports.	General 9, Section 1(d). Trading Ahead of Research Reports.	5280. Trading Ahead of Research Reports.
General 9, Section 1(e). Anti-Intimidation/Coordination.	General 9, Section 1(e). Anti-Intimidation/Coordination.	5240. Anti-Intimidation/Coordination.
General 9, Section 1(f). Confirmation of Callable Common Stock.	General 9, Section 1(f). Confirmation of Callable Common Stock.	2232. Customer Confirmations.
General 9, Section 1(g). Interfering With the Transfer of Customer Accounts in the Context of Employment Disputes.	General 9, Section 1(h). Interfering With the Transfer of Customer Accounts in the Context of Employment Disputes.	2140. Interfering With the Transfer of Customer Accounts in the Context of Employment Disputes.
General 9, Section 1(i). Use of Manipulative, Deceptive or Other Fraudulent Devices.	General 9, Section 1(g). Use of Manipulative, Deceptive or Other Fraudulent Devices.	2020. Use of Manipulative, Deceptive or Other Fraudulent Devices.*
General 9, Section 2. Customers' Securities or Funds.	General 9, Section 2. Customers' Securities or Funds.	2150. Improper Use of Customers' Securities or Funds; Prohibition Against Guarantees and Sharing in Accounts.
General 9, Section 3. Communications with the Public.	General 9, Section 3. Communications with the Public.	2210. Communications with the Public.
General 9, Section 5. Telemarketing	General 9, Section 5. Telemarketing	3230. Telemarketing.
General 9, Section 6. Forwarding of Proxy and Other Issuer-Related Materials.	General 9, Section 6. Forwarding of Proxy and Other Issuer-Related Materials.	2251. Processing and Forwarding of Proxy and Other Issuer-Related Materials.
General 9, Section 7(a). Disclosure of Financial Condition.	General 9, Section 7(a). Disclosure of Financial Condition.	2261. Disclosure of Financial Condition.
General 9, Section 7(b). Disclosure of Control Relationship with Issuer.	General 9, Section 7(b). Disclosure of Control Relationship with Issuer.	2262. Disclosure of Control Relationship with Issuer.
General 9, Section 7(c). Disclosure of Participation or Interest in Primary or Secondary Distribution.	General 9, Section 7(c). Disclosure of Participation or Interest in Primary or Secondary Distribution.	2269. Disclosure of Participation or Interest in Primary or Secondary Distribution.
General 9, Section 10 Recommendations to Customers (Suitability).	General 9, Section 10 Recommendations to Customers (Suitability).	2111. Suitability.

General 9, Section 11. Best Execution and Interpositioning.	General 9, Section 11. Best Execution and Interpositioning.	5310. Best Execution and Interpositioning.
General 9, Section 12. Customer Account Statements.	General 9, Section 12. Customer Account Statements.	2231. Customer Account Statements.
General 9, Section 13. Margin Disclosure Statement.	General 9, Section 13. Margin Disclosure Statement.	2264. Margin Disclosure Statement.
General 9, Section 14. Approval Procedures for Day-Trading Accounts.	General 9, Section 14. Approval Procedures for Day-Trading Accounts.	2130. Approval Procedures for Day-Trading Accounts and Rule 2270 Day-Trading Risk Disclosure Statement.
General 9, Section 15. Borrowing From or Lending to Customers.	General 9, Section 15. Borrowing From or Lending to Customers.	3240. Borrowing From or Lending to Customers.
General 9, Section 16. Charges for Services Performed.	General 9, Section 16. Charges for Services Performed.	2122. Charges for Services Performed.
General 9, Section 18. Payments for Market Making.	General 9, Section 18. Payments for Market Making.	5250. Payments for Market Making.
General 9, Section 19. Discretionary Accounts	General 9, Section 19. Discretionary Accounts	3260. Discretionary Accounts.
General 9, Section 20. Supervision	General 9, Section 20. Supervision	3110. Supervision.
General 9, Section 21(a). Supervisory Control System, Annual Certification of Compliance and Supervisory Processes.	General 9, Section 21(a). Supervisory Control System, Annual Certification of Compliance and Supervisory Processes.	3120. Supervisory Control System.
General 9, Section 21(c). Supervisory Control System, Annual Certification of Compliance and Supervisory Processes.	General 9, Section 21(c). Supervisory Control System, Annual Certification of Compliance and Supervisory Processes.	3130. Annual Certification of Compliance and Supervisory Processes.
General 9, Section 23. Outside Business Activities of an Associated Person.	General 9, Section 23. Outside Business Activities of an Associated Person.	3270. Outside Business Activities of an Associated Person.
General 9, Section 24. Private Securities Transactions of an Associated Person.	General 9, Section 24. Private Securities Transactions of an Associated Person.	3280. Private Securities Transactions of an Associated Person.
General 9, Section 25. Transactions for or by Associated Persons.	General 9, Section 25. Transactions for or by Associated Persons.	3210. Accounts at Other Broker-Dealers and Financial Institutions.
General 9, Section 26. Influencing or Rewarding Employees of Others.	General 9, Section 26. Influencing or Rewarding Employees of Others.	3220. Influencing or Rewarding Employees of Others.
General 9, Section 27. Reporting Requirements#.	General 9, Section 27. Reporting Requirements#.	4530. Reporting Requirements.
General 9, Section 28. Disclosure to Associated Persons When Signing Form U–4.	General 9, Section 28. Disclosure to Associated Persons When Signing Form U–4.	2263. Arbitration Disclosure to Associated Persons When Signing or Acknowledging Form U–4.
General 9, Section 30. Books and Records, Section 43. General Requirements.	General 9, Section 30. Books and Records, Section 43. General Requirements.	4511. General Requirements.
General 9, Section 31. Use of Information Obtained in Fiduciary Capacity.	General 9, Section 31. Use of Information Obtained in Fiduciary Capacity.	2060. Use of Information Obtained in Fiduciary Capacity.
General 9, Section 37. Anti-Money Laundering Compliance Program.	General 9, Section 37. Anti-Money Laundering Compliance Program.	3310. Anti-Money Laundering Compliance Program.
General 9, Section 39. Fidelity Bonds	General 9, Section 39. Fidelity Bonds	4360. Fidelity Bonds.
General 9, Section 30. Books and Records, (d) Record of Written Complaints; (e) ''Complaint'' Defined.	General 9, Section 44. Records of Written Customer Complaints.	4513. Records of Written Customer Complaints.
General 9, Section 30. Books and Records, (b) Customer Account Information.	General 9, Section 45. Customer Account Information.	4512. Customer Account Information.
General 9, Section 30. Books and Records, (g) Negotiable Instruments Drawn From A Customer's Account.	General 9, Section 46. Authorization Records for Negotiable Instruments Drawn From a Customer's Account.	4514. Authorization Records for Negotiable Instruments Drawn From a Customer's Account.
General 9, Section 30. Books and Records, (j) Changes in Account Name or Designation.	General 9, Section 47. Approval and Documentation of Changes in Account Name or Designation.	4515. Approval and Documentation of Changes in Account Name or Designation.
General 9, Section 49. Payments Involving Publications that Influence the Market Price of a Security.	General 9, Section 49. Payments Involving Publications that Influence the Market Price of a Security.	5230. Payments Involving Publications that Influence the Market Price of a Security.
General 9, Section 50. Foreign Members#	General 9, Section 50. Foreign Members#	1021. Foreign Members.
General 9, Section 51. Research Analysts	General 9, Section 51. Research Analyst	2241. Research Analysts and Research Reports.
General 9, Section 71. Custodian of Books and Records.	General 9, Section 71. Custodian of Books and Records.	4570. Custodian of Books and Record, (a) Designation of Custodian.
Equity 9, Section 1 Adjustment of Open Orders	Equity 9, Section 1. Adjustment of Open Orders.	5330. Adjustment of Orders.
Equity 9, Section 3. Publication of Transactions and Quotations.	Equity 9, Section 3. Publication of Transactions and Quotations.	5210. Publication of Transactions and Quotations.
Equity 9, Section 10. Prompt Receipt and Delivery of Securities.	Equity 9, Section 10. Prompt Receipt and Delivery of Securities.	11860(a)(4)(A). Purchases.
Equity 10, Section 1. Direct Participation Programs.	Equity 10, Section 1. Direct Participation Programs.	2310. Direct Participation Programs.
Equity 10, Section 2. Investment Company Securities.	Equity 10, Section 2. Investment Company Securities.	2341. Investment Company Securities.
2841. General	Equity 10, Section 3(a). General	2351(a). General Provisions Applicable to Trading in Index Warrants, Currency Index Warrants and Currency Warrants.

Equity 10, Section 4 Position Limits; 5 Exercise Limits; and 7 Liquidation of Index Warrant Positions.	Equity 10, Section 4 Position Limits; 5 Exercise Limits; and 7 Liquidation of Index Warrant Positions.	2357. Position and Exercise Limits; Liquidations.

The following provisions are covered by the Agreement between the Parties:

- SEC '34 Act Section 28(e) Effect on Existing Law
- SEC '34 Act Rule 10b–10 Confirmation of Transactions
- SEC '34 Act Rule 203 of Regulation SHO Borrowing and Delivery Requirements
- SEC '34 Act Rule 606 of Regulation NMS Disclosure of Order Routing Information
- SEC '34 Act Rule 607 of Regulation NMS Customer Account Statements
- *SEA Rule 14e–4—Prohibited Transactions in Connection with Partial Tender Offers*–

∧ *FINRA shall perform surveillance, investigation, and Enforcement Responsibilities for SEA Rule 14e–4(a)(1)(ii)(D).*

* FINRA shall not have any Regulatory Responsibilities for these rules as they pertain to violations of insider trading activities, which is covered by a separate 17d–2 Agreement by and among [the American Stock Exchange, LLC, BATS Exchange, Inc. Boston Stock Exchange, Inc., CBOE Stock Exchange, LLC, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, The NASDAQ Stock Market LLC, National Stock Exchange, Inc., New York Stock Exchange, LLC, NYSE Arca Inc., NYSE Regulation, Inc., and Philadelphia Stock Exchange, Inc.] *Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Chicago Stock Exchange, Inc., Cboe EDGA Exchange Inc., Cboe EDGX Exchange Inc., Financial Industry Regulatory Authority, Inc., MEMX, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, NYSE National, Inc., New York Stock Exchange, LLC, NYSE American LLC, NYSE Arca Inc., and Investors' Exchange LLC and the Long-Term Stock Exchange, Inc.* as approved by the SEC on [October 17, 2008]*September 23, 2020.*

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 4–575 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number 4–575. 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 plan that are filed with the Commission, and all written communications relating to the proposed plan 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 plan also will be available for inspection and copying at the principal offices of FINRA, BX, and Nasdaq. 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 4–575 and should be submitted on or before October 20, 2021.

V. Discussion

The Commission finds that the proposed Amended Plan is consistent with the factors set forth in Section 17(d) of the Act [13] and Rule 17d–2(c) thereunder [14] in that the proposed Amended Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Amended Plan should reduce unnecessary regulatory duplication by allocating to FINRA certain examination and enforcement responsibilities for Common Members that would otherwise be performed by FINRA, BX, and Nasdaq. Accordingly, the proposed Amended Plan promotes efficiency by reducing costs to Common Members. Furthermore, because BX, Nasdaq and FINRA will coordinate their regulatory functions in accordance with the Amended Plan, the Amended Plan should promote investor protection.

The Commission notes that, under the Amended Plan, BX, Nasdaq and FINRA have allocated regulatory responsibility for those BX and Nasdaq rules, set forth in the Certification, that are substantially similar to the applicable FINRA rules in that examination for compliance with such provisions and rules would not require FINRA to develop one or more new examination standards, modules, procedures, or criteria in order to analyze the application of the rule, or a Common Member's activity, conduct, or output in relation to such rule. In addition, under the Amended Plan, FINRA would assume regulatory responsibility for certain provisions of the federal securities laws and the rules and regulations thereunder that are set forth in the Certification. The Common Rules covered by the Amended Plan are specifically listed in the Certification, as may be amended by the Parties from time to time.

According to the Amended Plan, BX and Nasdaq will each review the Certification at least annually, or more frequently if required by changes in either the rules of BX, Nasdaq, or FINRA, and, if necessary, submit to FINRA an updated list of Common Rules to add BX or Nasdaq rules not included on the then-current list of Common Rules that are substantially similar to FINRA rules; delete BX or Nasdaq rules included in the then-current list of Common Rules that no longer qualify as common rules; and confirm that the remaining rules on the list of Common Rules continue to be BX or Nasdaq rules that qualify as common rules.[15] FINRA will then confirm in writing whether the rules listed in any updated list are Common Rules as defined in the Amended Plan. The Commission believes that these provisions are designed to provide for continuing communication between the Parties to ensure the continued accuracy of the scope of the proposed allocation of regulatory responsibility.

The Commission is hereby declaring effective an Amended Plan that, among other things, allocates regulatory responsibility to FINRA for the oversight and enforcement of all BX and Nasdaq rules that are substantially

[13] 15 U.S.C. 78q(d).

[14] 17 CFR 240.17d–2(c).

[15] *See* paragraph 2 of the Amended Plan.

similar to the rules of FINRA for Common Members of BX and FINRA, and Nasdaq and FINRA. Therefore, modifications to the Certification need not be filed with the Commission as an amendment to the Amended Plan, provided that the Parties are only adding to, deleting from, or confirming changes to BX or Nasdaq rules in the Certification in conformance with the definition of Common Rules provided in the Amended Plan. However, should the Parties decide to add a BX and Nasdaq rule to the Certification that is not substantially similar to a FINRA rule; delete a BX and Nasdaq rule from the Certification that is substantially similar to a FINRA rule; or leave on the Certification a BX and Nasdaq rule that is no longer substantially similar to a FINRA rule, then such a change would constitute an amendment to the Amended Plan, which must be filed with the Commission pursuant to Rule 17d–2 under the Act.[16]

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the Amended Plan is to allocate surveillance, investigation, and enforcement responsibilities for Rule 14e–4 under the Act, to reflect the name change of Boston Stock Exchange, Incorporated to Nasdaq BX, Inc., and to add Nasdaq as a Participant to the Plan. The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.[17] Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the Amended Plan filed with the Commission in File No. 4–575. The Parties shall notify all members affected by the Amended Plan of their rights and obligations under the Amended Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Amended Plan in File No. 4–575, between the FINRA, BX, and Nasdaq, filed pursuant to Rule 17d–2 under the Act, hereby is approved and declared effective.

It is further ordered that BX and Nasdaq are relieved of those responsibilities allocated to FINRA under the Amended Plan in File No. 4–575.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

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BILLING CODE 8011–01–P

[16] The addition to or deletion from the Certification of any federal securities laws, rules, and regulations for which FINRA would bear responsibility under the Amended Plan for examining, and enforcing compliance by, Common Members, also would constitute an amendment to the Amended Plan.

[17] *See supra* note 11 (citing to Securities Exchange Act Release No. 59218).

[18] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–93113; File No. SR–Phlx–2021–55]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Pricing Schedule at Equity 7, Section 3(a)

September 23, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 13, 2021, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's pricing schedule at Equity 7, Section 3(a), as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's schedule of credits, at Equity 7, Section 3(a). Specifically, the Exchange proposes to eliminate an existing credit of $0.0033 per share executed to members that provide liquidity for displayed quotes/orders executed. The Exchange currently provides a $0.0033 per share executed credit for displayed quotes/orders executed at or between $1.00 and $5.00 per share.

The Exchange proposes to eliminate the existing credit as it has not been effective in accomplishing its intended purpose, which is to incent members to increase their liquidity adding activity. This credit has served to neither sufficiently increase activity on, nor improved the market quality of, the Exchange. The Exchange therefore proposes to eliminate it.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[4] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposal is also consistent with Section 11A of the Act relating to the establishment of the national market system for securities.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4) and (5).

The Proposal Is Reasonable

The Exchange's proposal is reasonable in several respects. As a threshold matter, the Exchange is subject to significant competitive forces in the market for equity securities transaction services that constrain its pricing determinations in that market. The fact that this market is competitive has long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission,* the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [5]

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [6]

Numerous indicia demonstrate the competitive nature of this market. For example, clear substitutes to the Exchange exist in the market for equity security transaction services. The Exchange is only one of several equity venues to which market participants may direct their order flow. Competing equity exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds.

Within this environment, market participants can freely and often do shift their order flow among the Exchange and competing venues in response to changes in their respective pricing schedules. The credit was an attempt to increase liquidity but was not as successful as the Exchange expected.

The Exchange believes that it is reasonable to eliminate its existing $0.0033 per share executed credit for quotes/orders executed at or between $1.00 and $5.00 per share. As discussed above, the Exchange has observed that the credit has served to neither meaningfully increase activity on, nor improved the market quality of, the Exchange. Under these circumstances, the Exchange believes it is reasonable to eliminate the credit and reallocate its limited resources to more effective incentive programs.

The Exchange notes that those market participants that are dissatisfied with the proposal is free to shift their order flow to competing venues that offer more generous pricing or less stringent qualifying criteria.

The Proposal Is an Equitable Allocation of Credits

The Exchange believes its proposal will allocate its charges and credits fairly among its market participants.

The Exchange believes that is an equitable allocation to eliminate its existing $0.0033 per share executed credit for quotes/orders executed at or between $1.00 and $5.00 per share. As discussed above, the credit has served to neither meaningfully increase activity on the Exchange nor improve the quality of the Exchange. Under these circumstances, the Exchange believes it is equitable to eliminate the credit and reallocate its limited resources to more effective incentive programs.

Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

The Proposal Is Not Unfairly Discriminatory

The Exchange believes that its proposal is not unfairly discriminatory. As an initial matter, the Exchange believes that nothing about its tiered pricing model is inherently unfair; instead, it is a rational pricing model that is well-established and ubiquitous in today's economy among firms in various industries—from co-branded credit cards to grocery stores to cellular telephone data plans—that use it to reward the loyalty of their best customers that provide high levels of business activity and incent other customers to increase the extent of their business activity. It is also a pricing model that the Exchange and its competitors have long employed with the assent of the Commission. It is fair because it enhances price discovery and improves the overall quality of the equity markets. The proposal is not unfairly discriminatory because the change applies to all market participants.

The proposal to eliminate one of the Exchange's transaction credits is not unfairly discriminatory because the Exchange has observed that the credit has served to neither meaningfully increase activity on, nor improved the market quality of, the Exchange. Under these circumstances, the Exchange believes it is reasonable to eliminate the credit and reallocate its limited resources to more effective incentive programs. The Exchange has limited resources with which to apply to incentives, and it must allocate those limited resources in a manner that prioritizes areas of greatest need and potential effect.

Any participant that is dissatisfied with the proposal is free to shift their order flow to competing venues that provide more generous pricing or less stringent qualifying criteria.

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.

Intramarket Competition

The Exchange does not believe that its proposal will place any category of Exchange participant at a competitive disadvantage.

The proposed elimination of one of the Exchange's existing transaction credits will have minimal competitive effect insofar as the Exchange offers other means to attain other credit tiers.

The Exchange notes that its members are free to trade on other venues to the extent they believe that the remaining credits are not attractive. As one can observe by looking at any market share chart, price competition between exchanges is fierce, with liquidity and market share moving freely between exchanges in reaction to fee and credit changes.

Intermarket Competition

In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its

[5] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[6] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

credits and fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own credits and fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which credit or fee changes in this market may impose any burden on competition is extremely limited.

If the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2021–55 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2021–55. 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–Phlx–2021–55 and should be submitted on or before October 20, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–21112 Filed 9–28–21; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34381; 812–15250]

The Optima Dynamic Alternatives Fund, et al;

September 24, 2021.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain registered closed end investment companies to issue multiple classes of shares of beneficial interest with varying sales loads and to impose asset-based distribution and/or service fees.

Applicants: The Optima Dynamic Alternatives Fund (the ''Initial Fund''), and Optima Asset Management LLC (the ''Adviser'').

Filing Dates: The application was filed on July 23, 2021 and amended on September 7, 2021.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below.

Hearing requests should be received by the Commission by 5:30 p.m. on October 19, 2021, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: *joshua.deringer@faegredrinker.com* and *geoffrey.lewis@optima.com.*

FOR FURTHER INFORMATION CONTACT: Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and condition, please refer to Applicants' application, dated September 7, 2021, which may be obtained via the Commission's website by searching for the file number, using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–21187 Filed 9–28–21; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: U.S. Small Business Administration.

ACTION: 30-Day notice; request for comments.

SUMMARY: The Small Business Administration will submit the information collection described below to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the collection of information.

DATES: Submit comments on or before October 29, 2021.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number, which are provided below.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office by contacting Curtis Rich at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: Section 1102 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116–136, authorized SBA to guarantee loans made by banks or other financial institutions under a temporary program titled the ''Paycheck Protection Program'' (PPP). These loans were available to eligible small businesses, certain non-profit organizations, veterans' organizations, Tribal business concerns, independent contractors, and self-employed individuals adversely impacted by the COVID–19 Emergency. SBA's authority to guarantee PPP loans expired on August 8, 2020. On December 27, 2020, SBA received reauthorization under the Economic Aid Act, Public Law 116–260, to resume guaranteeing PPP loans through March 31, 2021. The Economic Aid Act authorized certain borrowers that previously received a PPP loan to receive a second draw PPP loan (''Second Draw PPP Loan Program''). On March 11, 2021, the American Rescue Plan Act, Public Law 117–2, was enacted, amending various PPP statutory provisions. On March 30, 2021, the PPP Extension Act of 2021 extended the SBA's PPP program authority through June 30, 2021.

This information collection is currently approved for the Second Draw PPP Loan Program under the emergency procedures authorized by 5 U.S.C. 3507(j) and 5 CFR 1320.13. This approval will expire on September 30, 2021. Therefore, as required by the Paperwork Reduction Act, SBA is publishing this notice as a prerequisite to seeking OMB's approval to ensure this information collection is available for use beyond September 30, 2021, if necessary.

Summary of Information Collection

Title: Paycheck Protection Loan Program—Second Draw.

OMB Control Number: 3245–0417.

(I) SBA Form 2483–D, Paycheck Protection Program Second Draw Application

Estimated Number of Respondents: 1,795,000.

Estimated Annual Responses: 1,795,000.

Estimated Annual Hour Burden: 239,393.

(II) SBA Form 2483–SD–C—Paycheck Protection Program Second Draw Application for Schedule C Filers Using Gross Income

Estimated Number of Respondents: 1,118,000.

Estimated Annual Responses: 1,118,000.

Estimated Annual Hour Burden: 149,061.

(III) SBA Form 2484–SD—Paycheck Protection Program Second Draw Lender's Application for 7(A) Guaranty

Estimated Number of Respondents: 5,506.

Estimated Annual Responses: 2,913,000.

Estimated Annual Hour Burden: 1,213,919.

Solicitation of Public Comments

SBA invites the public to submit comments, including specific and detailed suggestions on ways to improve the collection and reduce the burden on respondents. Commenters should also address (i) whether the information collection is necessary for the proper performance of SBA's functions, including whether it has any practical utility; (ii) the accuracy of the estimated burdens; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) the use of automated collection techniques or other forms of information technology to minimize the information collection burden on those who are required to respond.

Curtis Rich,

Management Analyst.

[FR Doc. 2021–21083 Filed 9–28–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17054 and #17055; PENNSYLVANIA Disaster Number PA–00111]

Administrative Declaration Amendment of a Disaster for the Commonwealth of Pennsylvania

AGENCY: Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Administrative declaration of a disaster for the Commonwealth of Pennsylvania dated 07/29/2021.

Incident: Flash Flooding.

Incident Period: 07/12/2021.

DATES: Issued on 09/22/2021.

Physical Loan Application Deadline Date: 10/27/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 04/29/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the Administrator's disaster declaration for the Commonwealth of Pennsylvania, dated 07/29/2021, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 10/27/2021.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2021–21108 Filed 9–28–21; 8:45 am]

BILLING CODE 8026–03–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2021–0036]

Agency Information Collection Activities: Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions, and one extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA. Comments: *https://www.reginfo.gov/public/do/PRAMain.* Submit your comments online referencing Docket ID Number [SSA–2021–0036].

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235. Fax: 410–966–2830. Email address: *OR.Reports.Clearance@ssa.gov*. Or you may submit your comments online through *https://www.reginfo.gov/public/do/PRAMain,* referencing Docket ID Number [SSA–2021–0036].

SSA submitted the information collections below to OMB for clearance. Your comments regarding these information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than October 29, 2021. Individuals can obtain copies of these OMB clearance packages by writing to *OR.Reports.Clearance@ssa.gov.*

1. Application for Parent's Insurance Benefits—20 CFR 404.370, 404.371, 404.373, 404.374 & 404.601–404.603—0960–0012. Section 202(h) of the Social Security Act (Act) establishes the conditions of eligibility a claimant must meet to receive monthly benefits as a parent of a deceased worker who was contributing at least one-half of the parent's support at the time of the worker's death or when the worker became disabled. SSA uses information from Form SSA–7–F6, Application for Parent's Insurance Benefits, to determine if the claimant meets the eligibility and application criteria. The respondents are applicants filing for Parent's Insurance Benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time in field office or for teleservice centers (minutes)**	Total annual opportunity cost (dollars)***
SSA–7–F6 (Paper)	4	1	15	1	*$27.07		***$27
Interview (MCS)	325	1	15	81	*27.07	**21	***5,279
Totals	329			82			***5,306

*We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

**We based this figure on averaging both the average FY 2021 wait times for field offices and teleservice centers, based on SSA's current management information data.

***This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

2. Employment Relationship Questionnaire—20 CFR 404.1007—0960–0040. When SSA needs information to determine a worker's employment status to maintain a worker's earning records, the agency uses Form SSA–7160, Employment Relationship Questionnaire, to determine the existence of an employer-employee relationship. We use the information to develop the employment relationship; specifically, to determine whether a beneficiary is self-employed or an employee. The respondents are individuals, households, businesses, and state or local governments seeking to establish their status as employees, and their alleged employers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)*	Average wait time in field office (minutes)**	Total annual opportunity cost (dollars)***
SSA–7160	45	1	25	19	*$22.14	**24	***$820

*We based this figure on the average U.S. worker's hourly wages of $27.07 (*https://www.bls.gov/oes/current/oes_nat.htm*); the median hourly wage of $21.10 for public sector Information and Records Clerks (*https://www.bls.gov/oes/current/oes434199.htm*); and the median hourly wage of $18.25 for State and Local government Information and Records Clerks (*https://www.bls.gov/oes/current/oes434199.htm*), as reported by Bureau of Labor Statistics data. We used the average of these three wages to calculate the combined Average Theoretical Hourly Wage of $22.14.

**We based this figure on the average FY 2021 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

3. Statement of Self-Employment Income—20 CFR 404.101, 404.110, & 404.1096—0960–0046. To qualify for insured status, and collect Social Security benefits, self-employed individuals must demonstrate they earned the minimum amount of self-employment income (SEI) in a current year. SSA uses Form SSA–766, Statement of Self-Employment Income, to collect the information we need to determine if the individual earned at least the minimum amount of SEI needed for one or more quarters of coverage in the current year. Based on the information we obtain, we may credit additional quarters of coverage to give the individual insured status and expedite benefit payments. Respondents are self-employed individuals potentially eligible for Social Security benefits.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–766	910	1	5	76	* $27.07	** $2,057

* We based this figure on the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

4. Substitution of Party Upon Death of Claimant—20 CFR 404.957(c)(4) & 416.1457(c)(4)—0960–0288. A judge may dismiss a request for a hearing on a pending claim of a deceased individual for Social Security benefits or Supplemental Security Income (SSI) payments. Individuals who believe the dismissal may adversely affect them may complete Form HA–539, Notice Regarding Substitution of Party Upon Death of Claimant, which allows them to request to become a substitute party for the deceased claimant. The judge and the hearing office support staff use the information from the HA–539 to: (1) Maintain a written record of request; (2) establish the relationship of the requester to the deceased claimant; (3) determine the substituted individual's wishes regarding an oral hearing or decision on the record; and (4) admit the data into the claimant's official record as an exhibit. The respondents are individuals requesting to be substitute parties for a deceased claimant.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
HA–539	4,000	1	5	333	* $10.95	** $3,646

* We based this figure on the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

5. Continuation of Supplemental Security Income Payments for the Temporarily Institutionalized—Certification of Period and Need to Maintain Home—20 CFR 416.212(b)(1)—0960–0516. When SSI recipients: (1) Enter a public institution; or (2) enter a private medical treatment facility with Medicaid paying more than 50 percent of expenses, SSA reduces recipients' SSI payments to a nominal sum. However, if this institutionalization is temporary (defined as a maximum of three months), SSA may waive the reduction. Before SSA can waive the SSI payment reduction, the agency must receive the following documentation: (1) A physician's certification stating the SSI recipient will only be institutionalized for a maximum of three months; and (2) certification from the recipient, the recipient's family, or friends, confirming the recipient needs SSI payments to maintain the living arrangements to which the individual will return post-institutionalization. To obtain this information, SSA employees contact the recipient (or a knowledgeable source) to collect the required physician's certification and the statement of need. SSA does not require any specific format for these items, so long as we obtain the necessary attestations. The respondents are SSI recipients, their family or friends, as well as physicians or hospital staff members who treat the SSI recipient.

Type of Request: Revision of an OMB-approved information collection.

NOTE: We created a fillable PDF form to collect the same information as collected through the SSI Claims System screens. The new form, SSA–186, Temporary Institutionalization Statement to Maintain Household and Physician Certification, will make it easier for the recipients, representative payees, and institutions to obtain the statement of need and the physician's certification all on one standardized document.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time for teleservice centers (minutes) **	Total annual opportunity cost (dollars) ***
Statement from other Respondents	26,793	1	5	2,233	* $10.95	19**	*** $117,351
Physician's Certifications	26,793	1	5	2,233	* 41.30	0 **	92,223 ***
Totals	53,586			4,466			*** 209,574

* We based these figures on the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*), and the average Healthcare Practitioners and Technical Occupations hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes290000.htm*).
** We based this figure on the average FY 2021 wait times for teleservice centers, based on SSA's current management information data.
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

6. Claimant Statement about Loan of Food or Shelter; Statement about Food or Shelter Provided to Another—20 CFR 416.1130–416.1148—0960–0529. SSA bases an SSI claimant's or recipient's eligibility on need, as measured by the amount of income an individual receives. Per our calculations, income includes other people providing in-kind support and maintenance in the form of food and shelter to SSI applicants or recipients. SSA uses Forms SSA–5062, Claimant Statement about Loan of Food or Shelter, and SSA–L5063, Statement about Food or Shelter Provided to Another, to obtain statements about food or shelter provided to SSI claimants or recipients. SSA uses this information to determine whether the food or shelter are bona fide loans or income for SSI purposes. This determination may affect claimants' or recipients' eligibility for SSI as well as the amounts of their SSI payments. The respondents are claimants and recipients for SSI payments, and individuals who provide loans of food or shelter to them.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
SSA–5062—Paper Version	29,026	1	10	4,838	* $19.01	** 24	*** $312,676
SSA–L5063—Paper Version	29,026	1	10	4,838	* 19.01	** 24	*** 312,676
SSA–5062—SSI Claims System	29,026	1	10	4,838	* 19.01	** 24	*** 312,676
SSA–L5063—SSI Claims System	29,026	1	10	4,838	* 19.01	** 24	*** 312,676
Totals	116,104			19,352			*** 1,250,704

*≤ We based this figure on averaging both the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).
** We based this figure on the average FY 2021 wait times for field offices, based on SSA's current management information data.
*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

7. Application for Circuit Court Law—20 CFR 404.985 & 416.1485—0960–0581. Individuals claiming that an acquiescence ruling (AR) would change SSA's prior determination or decision must submit a written readjudication request with specific information. SSA reviews the information in the requests to determine if the issues stated in the AR pertain to the claimant's case, and if the claimant is entitled to readjudication. If readjudication is appropriate, SSA considers the issues the AR covers. Any new determination or decision is subject to administrative or judicial review as specified in the regulations, and the claimants must provide information to request readjudication. The respondents are claimants for Social Security benefits and SSI payments, who request a readjudication of their claim based on an AR notice.

Type of Request: Extension of an OMB approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) ***
AR-based readjudication requests	10,000	1	17	2,833	* $10.95	** $31,021

* We based this figure on the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*).
** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

8. Social Security Administration Health IT Partner Program Assessment—Participating Facilities and Available Content Form—20 CFR 404.1614 & 416.1014—0960–0798. The Health Information Technology for Economic and Clinical Health (HITECH) Act promotes the adoption and meaningful use of health information technology (IT), particularly in the context of working with government agencies. Similarly, section 3004 of the Public Health Service Act requires health care providers or health insurance issuers with government contracts to implement, acquire, or upgrade their health IT systems and products to meet adopted standards and

implementation specifications. To support expansion of SSA's health IT initiative as defined under HITECH, SSA developed Form SSA–680, the Health IT Partner Program Assessment—Participating Facilities and Available Content Form. The SSA–680 allows healthcare providers to provide the information SSA needs to determine their ability to exchange health information with the agency electronically. We evaluate potential partners (healthcare providers and organizations) on: (1) The accessibility of health information they possess; and (2) the content value of their electronic health records' systems for our disability adjudication processes. SSA reviews the completeness of organizations' SSA–680 responses as one part of our careful analysis of their readiness to enter into a health IT partnership with us. The respondents are healthcare providers and organizations exchanging information with the agency.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Total annual opportunity cost (dollars) **
SSA–680	30	1	300	150	* $41.30	** $6,195

* We based this figures on average Healthcare Practitioners and Technical Occupations, as reported by Bureau of Labor Statistics data. (*https://www.bls.gov/oes/current/oes_nat.htm#00-0000*).

** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

9. Authorization for the Social Security Administration to Obtain Personal Information—20 CFR 404.704, 404.820 404.823, 404.1926, 416.203, & 418.3001—0960–0801. SSA uses Form SSA–8510, Authorization for the Social Security Administration to Obtain Personal Information, to contact a public or private custodian of records on behalf of an applicant or recipient of an SSA program to request evidence information or proofs, which may support a benefit application or payment continuation. SSA also uses this form to obtain evidence or proofs to determine the claimant's payment amount. We ask for information such as the following:

- Age requirements (*e.g.,* birth certificate, court documents)
- Insured status (*e.g.,* earnings, employer verification)
- Marriage or divorce
- Pension offsets
- Wages verification
- Annuities
- Dividends, royalties, or other similar payments
- Property information
- Benefit verification from a State agency or third party
- Immigration status (rare instances)
- Income verification from public agencies or private individuals
- Unemployment benefits
- Insurance policies
- Alimony or Child Support payments.

If the custodian of the records requires a signed authorization from the individual(s) whose information SSA requests, SSA may provide the custodian with a copy of the SSA–8510. Once the respondent completes the SSA–8510, either using the paper form or using the Personal Information Authorization Intranet version, SSA uses the form as the authorization to obtain personal information regarding the respondent from third parties until the authorizing person (respondent) withdraws their claim or revokes the permission of its use. The collection is voluntary; however, failure to verify the individuals' eligibility can prevent SSA from making an accurate and timely decision for their benefits. The respondents are individuals who may file for, or currently receive, Social Security benefits, SSI payments, or Medicare Part D subsidies.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars) *	Average wait time in field office (minutes) **	Total annual opportunity cost (dollars) ***
Paper SSA-8510 for general evidence purposes	8,226	1	5	686	* $19.01	** 24	*** $75,584
Personal Information Authorization Intranet Screens for general evidence purposes (SSI Claims System)	192,235	1	5	16,020	* 19.01	** 24	*** 1,766,295
Totals	200,461			16,706			*** 1,841,879

* We based this figure on averaging both the average DI payments based on SSA's current FY 2021 data (*https://www.ssa.gov/legislation/2021FactSheet.pdf*), and the average U.S. worker's hourly wages, as reported by Bureau of Labor Statistics data (*https://www.bls.gov/oes/current/oes_nat.htm*).

** We based this figure on the average FY 2021 wait times for field offices, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: September 24, 2021.

Naomi Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2021–21141 Filed 9–28–21; 8:45 am]
BILLING CODE 4191–02–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Product Exclusion Extensions: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: In prior notices, the U.S. Trade Representative modified the action in the Section 301 investigation of China's acts, policies, and practices related to technology transfer, intellectual property, and innovation by excluding from additional duties certain medical-care products needed to address the COVID–19 pandemic. These exclusions are scheduled to expire on September 30, 2021. On August 27, 2021, USTR requested comments on whether to extend these exclusions for up to six months. This notice announces the U.S. Trade Representative's determination to adopt an interim extension of these exclusions for 45 days in order to provide time to review the public comments.

DATES: The extensions announced in this notice will extend the product exclusions through November 14, 2021.

FOR FURTHER INFORMATION CONTACT: For general questions about this notice, contact Associate General Counsel Philip Butler or Assistant General Counsel David Salkeld at (202) 395–5725. For specific questions on customs classification or implementation of the product exclusions, contact *traderemedy@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On December 29, 2020, USTR announced the extension of 80 product exclusions on medical-care and/or COVID response products; further modifications in the form of 19 product exclusions, to remove Section 301 duties from additional medical-care and/or COVID response products; and that USTR might consider further extensions and/or modifications as appropriate. *See* 85 FR 85831 (the December 29 notice). On March 10, 2021, USTR announced the extension of these 99 exclusions until September 30, 2021, and that USTR might consider further extensions and/or modifications as appropriate. 86 FR 13785 (the March 10 notice).

On August 27, 2021, USTR published a **Federal Register** notice requesting public comments on whether any of these 99 exclusions should be further extended for up to six months. 86 FR 48280 (the August 27 notice). Pursuant to that notice, USTR will collect comments through its comment portal until September 27, 2021.

B. Interim Extension of COVID Exclusions

To provide time for USTR to review the comments it receives in response to the August 27 notice, the U.S. Trade Representative has determined to adopt an interim extension of these exclusions for 45 days. Accordingly, pursuant to sections 301(b), 301(c), and 307(a) of the Trade Act of 1974, as amended, the U.S. Trade Representative has determined to extend the 99 product exclusions described in the December 29 and March 10 notices through November 14, 2021. This change is described in the Annex to this notice. The U.S. Trade Representative's decision to adopt an interim extension considers public comments previously provided, as well as advice of advisory committees and the interagency Section 301 Committee.

As provided in the December 29 and March 10 notices, the exclusions are available for any product that meets the description in the product exclusion. The U.S. Trade Representative may continue to consider further extensions and/or additional modifications as appropriate. U.S. Customs and Border Protection will issue instructions on entry guidance and implementation.

Annex

Effective with respect to goods entered for consumption, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on October 1, 2021, and before 11:59 p.m. eastern standard time on November 14, 2021, each of the article descriptions of headings 9903.88.62, 9903.88.63, 9903.88.64 and 9903.88.65 of the Harmonized Tariff Schedule of the United States are modified by deleting ''September 30, 2021,'' and by inserting ''November 14, 2021,'' in lieu thereof.

Greta Peisch,

General Counsel, Office of the United States Trade Representative.

[FR Doc. 2021–21180 Filed 9–28–21; 8:45 am]
BILLING CODE 3290–F1–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent of Waiver With Respect to Land; Brookings Regional Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The FAA is considering a proposal to change 1.44 acres of airport land from aeronautical use to non-aeronautical use and to authorize the sale of airport property located at Brookings Regional Airport, Brookings, South Dakota. The aforementioned land is not needed for aeronautical use. The property is located approximately 6 miles south east of the airport, on the north side of 217th Street between 475th Ave. and 476th Ave., just east of the grove of trees. There was an FAA-owned outer marker located on the subject property, but the outer marker was abandoned when the runway it was serving was relocated and re-aligned. Currently the land is being used for agriculture and does not have an aeronautical use. The land will continue to be used for agriculture.

DATES: Comments must be received on or before October 29, 2021.

ADDRESSES: Documents are available for review by appointment at the FAA Dakota-Minnesota Airports District Office, Mr. Dave Anderson, Deputy Manager, 2301 University Drive, Building 23B, Bismarck, ND, 58504, Telephone: (701) 323–7380/Fax: (701) 323–7399 and Ms. Jackie Lanning, City Engineer, Brookings, SD, 520 3rd. Street, Suite 140, Brookings, SD 57006, (605) 692–6629.

Written comments on the Sponsor's request must be delivered or mailed to: Mr. Dave Anderson, Deputy Manager, Federal Aviation Administration, Dakota-Minnesota Airports District Office, 2301 University Drive, Bld. 23B, Bismarck, ND, Telephone Number: (701) 323–7380/FAX Number: (701) 323–7399.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Anderson, Deputy Manager, Federal Aviation Administration, Dakota-Minnesota Airports District Office, 2301 University Drive, Bld. 23B, Bismarck, ND 58504. Telephone Number: (701) 323–7380/FAX Number: (701) 323–7399.

SUPPLEMENTARY INFORMATION: In accordance with section 47107(h) of Title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that

requires the property to be used for an aeronautical purpose.

The property was purchased in 1991 with an Airport Improvement Program (AIP) grant. It was used for an outer marker for the approach to Runway 12/30 until the runway was relocated and re-aligned. The outer marker was removed after the new runway was constructed. The City of Brookings is proposing to sell the land for agricultural use. An appraised value of the land is $10,944.

The disposition of proceeds from the sale of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999 (64 FR 7696).

This notice announces that the FAA is considering the release of the subject airport property at the Brookings Regional Airport, Brookings, South Dakota from federal land covenants, subject to a reservation for continuing right of flight as well as restrictions on the released property as required in FAA Order 5190.6B section 22.16. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

The description of the property is S 285′ of W 220′ of SE¼ SW¼ SEC 15–109–49. It consists of 1.44 acres.

Issued in Bismarck, North Dakota, on September 22, 2021.

David P. Anderson,

Acting Manager, Dakota-Minnesota Airports District Office, FAA, Great Lakes Region.

[FR Doc. 2021–21089 Filed 9–28–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–1999–5578; FMCSA–2000–7363; FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2002–11714; FMCSA–2002–13411; FMCSA–2003–14223; FMCSA–2003–14504; FMCSA–2003–15268; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2006–26653; FMCSA–2007–2663; FMCSA–2007–27333; FMCSA–2007–27515; FMCSA–2007–27897; FMCSA–2008–0021; FMCSA–2008–0106; FMCSA–2008–0340; FMCSA–2008–0398; FMCSA–2009–0054; FMCSA–2009–0086; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2009–0291; FMCSA–2010–0082; FMCSA–2010–0187; FMCSA–2010–0354; FMCSA–2010–0385; FMCSA–2010–0413; FMCSA–2011–0010; FMCSA–2011–0024; FMCSA–2011–0092; FMCSA–2011–0102; FMCSA–2011–0140; FMCSA–2012–0040; FMCSA–2012–0215; FMCSA–2012–0279; FMCSA–2012–0337; FMCSA–2013–0022; FMCSA–2013–0024; FMCSA–2013–0025; FMCSA–2013–0027; FMCSA–2013–0028; FMCSA–2013–0029; FMCSA–2013–0030; FMCSA–2014–0007; FMCSA–2014–0011; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2014–0302; FMCSA–2014–0304; FMCSA–2014–0305; FMCSA–2015–0048; FMCSA–2015–0049; FMCSA–2015–0052; FMCSA–2015–0053; FMCSA–2015–0055; FMCSA–2015–0072; FMCSA–2016–0030; FMCSA–2016–0033; FMCSA–2016–0206; FMCSA–2016–0208; FMCSA–2016–0212; FMCSA–2016–0213; FMCSA–2016–0214; FMCSA–2017–0014; FMCSA–2017–0017; FMCSA–2017–0019; FMCSA–2017–0020; FMCSA–2018–0017; FMCSA–2019–0005; FMCSA–2019–0009; FMCSA–2019–0011]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 123 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Each group of renewed exemptions were applicable on the dates stated in the discussions below and will expire on the dates provided below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, DOT, 1200 New Jersey Avenue SE, Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., ET, Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Viewing Comments

To view comments go to *www.regulations.gov.* Insert the docket number, FMCSA–1998–4334, FMCSA–1999–5578, FMCSA–2000–7363, FMCSA–2001–9258, FMCSA–2001–9561, FMCSA–2002–11714, FMCSA–2002–13411, FMCSA–2003–14223, FMCSA–2003–14504, FMCSA–2003–15268, FMCSA–2005–20560, FMCSA–2005–21254, FMCSA–2006–25246, FMCSA–2006–26066, FMCSA–2006–26653, FMCSA–2007–2663, FMCSA–2007–27333, FMCSA–2007–27515, FMCSA–2007–27897, FMCSA–2008–0021, FMCSA–2008–0106, FMCSA–2008–0340, FMCSA–2008–0398, FMCSA–2009–0054, FMCSA–2009–0086, FMCSA–2009–0121, FMCSA–2009–0154, FMCSA–2009–0291, FMCSA–2010–0082, FMCSA–2010–0187, FMCSA–2010–0354, FMCSA–2010–0385, FMCSA–2010–0413, FMCSA–2011–0010, FMCSA–2011–0024, FMCSA–2011–0092, FMCSA–2011–0102, FMCSA–2011–0140, FMCSA–2012–0040, FMCSA–2012–0215, FMCSA–2012–0279, FMCSA–2012–0337, FMCSA–2013–0022, FMCSA–2013–0024, FMCSA–2013–0025, FMCSA–2013–0027, FMCSA–2013–0028, FMCSA–2013–0029, FMCSA–2013–0030, FMCSA–2014–0007, FMCSA–2014–0011, FMCSA–2014–0296, FMCSA–2014–0298, FMCSA–2014–0302, FMCSA–2014–0304, FMCSA–2014–0305, FMCSA–2015–0048, FMCSA–2015–0049, FMCSA–2015–0052, FMCSA–2015–0053, FMCSA–2015–0055, FMCSA–2015–0072, FMCSA–2016–0030, FMCSA–2016–0033, FMCSA–2016–0206, FMCSA–2016–0208, FMCSA–2016–0212, FMCSA–2016–0213, FMCSA–2016–0214, FMCSA–2017–0014, FMCSA–2017–0017, FMCSA–2017–0019, FMCSA–2017–0020, FMCSA–2018–0017, FMCSA–2019–0005, FMCSA–2019–0009, or FMCSA–2019–0011 in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, and click ''Browse Comments.'' If you do not have access to the internet, you may view the docket online by visiting Dockets Operations in Room W12–140 on the ground floor of

the DOT West Building, 1200 New Jersey Avenue SE, 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) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

B. 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, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.transportation.gov/privacy.*

II. Background

On August 4, 2021, FMCSA published a notice announcing its decision to renew exemptions for 123 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (86 FR 42009). The public comment period ended on September 3, 2021, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation § 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in § 391.41(b)(10) states that a person is physically qualified to drive a CMV if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Conclusion

Based on its evaluation of the 123 renewal exemption applications and comments received, FMCSA confirms its decision to exempt the following drivers from the vision requirement in § 391.41(b)(10).

In accordance with 49 U.S.C. 31136(e) and 31315(b), the following groups of drivers received renewed exemptions in the month of September and are discussed below. As of September 6, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following 115 individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (63 FR 66226, 64 FR 16517, 65 FR 45817, 65 FR 77066, 66 FR 17743, 66 FR 30502, 66 FR 33990, 66 FR 41654, 66 FR 41656, 67 FR 15662, 67 FR 37907, 67 FR 76439, 68 FR 10298, 68 FR 10301, 68 FR 19596, 68 FR 19598, 68 FR 33570, 68 FR 35772, 68 FR 37197, 68 FR 44837, 68 FR 48989, 69 FR 26206, 70 FR 7545, 70 FR 16886, 70 FR 17504, 70 FR 25878, 70 FR 30997, 70 FR 30999, 70 FR 33937, 70 FR 41811, 70 FR 42615, 70 FR 46567, 71 FR 26602, 71 FR 63379, 72 FR 180, 72 FR 1051, 72 FR 7812, 72 FR 8417, 72 FR 9397, 72 FR 12666, 72 FR 18726, 72 FR 21313, 72 FR 25831, 72 FR 27624, 72 FR 28093, 72 FR 32703, 72 FR 32705, 72 FR 36099, 72 FR 40359, 72 FR 40360, 72 FR 62896, 73 FR 15568, 73 FR 27017, 73 FR 35198, 73 FR 48275, 73 FR 75803, 73 FR 78423, 74 FR 6209, 74 FR 6211, 74 FR 7097, 74 FR 11988, 74 FR 11991, 74 FR 15584, 74 FR 15586, 74 FR 19267, 74 FR 19270, 74 FR 20253, 74 FR 21427, 74 FR 23472, 74 FR 26461, 74 FR 26464, 74 FR 26466, 74 FR 28094, 74 FR 34074, 74 FR 34395, 74 FR 34630, 74 FR 34632, 74 FR 43221, 74 FR 65842, 75 FR 9482, 75 FR 25918, 75 FR 27621, 75 FR 38602, 75 FR 39729, 75 FR 44051, 75 FR 47883, 75 FR 63257, 75 FR 72863, 75 FR 77492, 75 FR 77942, 75 FR 79083, 76 FR 1493, 76 FR 2190, 76 FR 4413, 76 FR 5425, 76 FR 9856, 76 FR 9865, 76 FR 12408, 76 FR 15361, 76 FR 17481, 76 FR 20076, 76 FR 21796, 76 FR 25762, 76 FR 25766, 76 FR 28125, 76 FR 29022, 76 FR 29026, 76 FR 32016, 76 FR 32017, 76 FR 34135, 76 FR 37168, 76 FR 37169, 76 FR 37173, 76 FR 37885, 76 FR 44082, 76 FR 44652, 76 FR 44653, 76 FR 49531, 76 FR 50318, 76 FR 53708, 77 FR 10606, 77 FR 23799, 77 FR 27849, 77 FR 33558, 77 FR 36338, 77 FR 40945, 77 FR 46153, 77 FR 52381, 77 FR 60008, 77 FR 60010, 77 FR 64841, 77 FR 70534, 77 FR 71671, 77 FR 74273, 77 FR 74734, 78 FR 797, 78 FR 800, 78 FR 9772, 78 FR 11731, 78 FR 12813, 78 FR 12815, 78 FR 12822, 78 FR 16761, 78 FR 16762, 78 FR 16912, 78 FR 20376, 78 FR 22596, 78 FR 22602, 78 FR 24300, 78 FR 24798, 78 FR 26106, 78 FR 27281, 78 FR 29431, 78 FR 30954, 78 FR 32703, 78 FR 32708, 78 FR 34140, 78 FR 34141, 78 FR 34143, 78 FR 37270, 78 FR 41188, 78 FR 46407, 78 FR 51268, 78 FR 51269, 78 FR 52602, 78 FR 56993, 78 FR 57679, 78 FR 76705, 78 FR 78477, 79 FR 4531, 79 FR 14328, 79 FR 35220, 79 FR 38659, 79 FR 45868, 79 FR 46153, 79 FR 53514, 79 FR 56099, 79 FR 58856, 79 FR 59357, 79 FR 69985, 79 FR 70928, 79 FR 72754, 79 FR 73686, 79 FR 73687, 79 FR 73689, 80 FR 603, 80 FR 3305, 80 FR 3308, 80 FR 3723, 80 FR 8751, 80 FR 8927, 80 FR 12248, 80 FR 12254, 80 FR 14220, 80 FR 14223, 80 FR 15863, 80 FR 16500, 80 FR 16502, 80 FR 18696, 80 FR 20559, 80 FR 22773, 80 FR 25766, 80 FR 25768, 80 FR 26139, 80 FR 26320, 80 FR 29149, 80 FR 29152, 80 FR 29154, 80 FR 31636, 80 FR 31640, 80 FR 31957, 80 FR 33007, 80 FR 33009, 80 FR 33011, 80 FR 35699, 80 FR 36398, 80 FR 37718, 80 FR 40122, 80 FR 41547, 80 FR 41548, 80 FR 44185, 80 FR 44188, 80 FR 45573, 80 FR 48404, 80 FR 48409, 80 FR 48413, 80 FR 50917, 80 FR 62161, 80 FR 62163, 80 FR 70060, 81 FR 15401, 81 FR 16265, 81 FR 45214, 81 FR 59266, 81 FR 60115, 81 FR 66726, 81 FR 70253, 81 FR 71173, 81 FR 72642, 81 FR 74494, 81 FR 81230, 81 FR 86063, 81 FR 90050, 81 FR 91239, 81 FR 96165, 81 FR 96180, 81 FR 96191, 81 FR 96196, 82 FR 12678, 82 FR 12683, 82 FR 13043, 82 FR 13048, 82 FR 13187, 82 FR 15277, 82 FR 17736, 82 FR 18818, 82 FR 18949, 82 FR 20962, 82 FR 22379, 82 FR 23712, 82 FR 26224, 82 FR 32919, 82 FR 33542, 82 FR 34564, 82 FR 35043, 82 FR 37499, 82 FR 47295, 82 FR 47296, 83 FR 4537, 83 FR 6919, 83 FR 28325, 83 FR 34661, 83 FR 40638, 83 FR 45750, 83 FR 53724, 83 FR 56137, 83 FR 56902, 84 FR 2311, 84 FR 2314, 84 FR 2326, 84 FR 10389, 84 FR 12665, 84 FR 16320, 84 FR 21393, 84 FR 21397, 84 FR 21401, 84 FR 23629, 84 FR 33801, 84 FR 47038, 84 FR 47045, 84 FR 47047, 84 FR 47057, 84 FR 52166):

Stanley C. Anders (SD)
Joseph W. Bahr (NJ)
Kreis C. Baldridge (TN)
Timothy D. Beaulier (MI)
Roosevelt Bell, Jr. (NC)
Rex A. Botsford (MI)
William L. Brady (KS)
Ryan L. Brown (IL)
Dale E. Bunke (ID)
Danny F. Burnley (KY)
Joseph L. Butler (IN)
Shawn M. Carroll (OK)
Bernabe V. Cerda (TX)
Paul M. Christina (PA)
Randy A. Cimei (IL)
Daniel G. Cohen (VT)
Gary G. Colby (UT)
Joseph W. Colecchi (PA)
Sean R. Conorman (MI)
William T. Costie (NY)
Jeffrey W. Cotner (OR)
Kenneth D. Craig (VA)
Edwin P. Davis (OR)
Edwin T. Donaldson (PA)
Everett A. Doty (AZ)
Rex A. Dyer (VT)
John A. Edison (GA)
Paul E. Emmons (RI)
James G. Etheridge (TX)

Randy L. Fales (MN)
Ray A. Fields (KS)
Dennis E. Fisher (NY)
Paul T. Fisher (MA)
Steven C. Fox (NC)
Steve L. Frisby (CA)
Patrick J. Goebel (IA)
Wladyslaw Gogola (IL)
Antonio Gomez (PA)
Timothy M. Good (MI)
Sanford L. Goodwin (TX)
Johnny J. Gowdy (MS)
Randy N. Grandfield (VT)
Edward J. Grant (IL)
Robert E. Graves (NE)
Samuel R. Graziano (PA)
Rocky D. Gysberg (MN)
Gary D. Hallman (AL)
Kenneth L. Handy (IA)
Paul R. Harpin (AZ)
Britt D. Hazelwood (IL)
George F. Hernandez, Jr. (AZ)
Andrew F. Hill (TX)
Wade M. Hillmer (MN)
Charlie E. Hoggard (TX)
David A. Inman (IN)
Donald M. Jenson (SD)
Daryl A. Jester (DE)
John T. Johnson (NM)
William D. Johnson (OK)
Christopher J. Kane (VT)
Christopher M. Keen (KS)
James J. Keranen (MI)
Lester H. Killingsworth (TX)
Laine Lewin (MN)
Craig M. Mahaffey (OH)
Michael G. Martin (CT)
Joe A. McIlroy (NY)
Luther A. McKinney (VA)
Gary G. McKown (WV)
Raymond W. Meier (WA)
Carlos A. Mendez-Castellon (VA)
Brian P. Millard (SC)
Jeffrey T. Molosz (IL)
Daniel R. Murphy (WI)
Warren J. Nyland (MI)
Jeffrey L. Olson (MN)
Mark A. Omps (WV)
Jerry D. Paul (OK)
Johnny A. Peery (MD)
David Perkins (NY)
Juan C. Puente (TX)
Donie L. Rhoads (MT)
Robert E. Richards (ME)
James R. Robinette (VA)
Steven D. Scharber (MN)
Mark A. Schlesselman (OH)
Raymond Sherrill (PA)
James Smentkowski (NJ)
Dennis J. Smith (CO)
Myron A. Smith (MN)
Harry Smith, Jr. (NC)
Francis A. St. Pierre (NH)
Jerry M. Stearns (AR)
Donald E. Stone (VA)
Thomas E. Summers, Sr. (OH)
Warren Supulski (NC)
Paul C. Swanson (IL)
Grover C. Taylor (VA)
Jon C. Thompson (TX)
Anthony J. Thornburg (MI)
Donald R. Torbett (IA)
Wesley E. Turner (TX)
Eric M. Turton (NY)
Donald A. Uplinger II (OH)
Mona J. Van Krieken (OR)
Lynn D. Veach (IA)
Scott Wallbank (MA)
Roy J. Ware (GA)
Donald L. Weston (PA)
Jeff L. Wheeler (IA)
Theodore A. White (PA)
Wayne A. Whitehead (NY)
Cameron R. Whitford (NY)
David Wiebe (TX)
Paul A. Wolfe (OH)

The drivers were included in docket numbers FMCSA–1998–4334, FMCSA–2000–7363, FMCSA–2001–9258, FMCSA–2001–9561, FMCSA–2002–11714, FMCSA–2002–13411, FMCSA–2003–14223, FMCSA–2003–14504, FMCSA–2003–15268, FMCSA–2005–20560, FMCSA–2005–21254, FMCSA–2006–25246, FMCSA–2006–26066, FMCSA–2006–26653, FMCSA–2007–2663, FMCSA–2007–27333, FMCSA–2007–27515, FMCSA–2008–0021, FMCSA–2008–0106, FMCSA–2008–0340, FMCSA–2008–0398, FMCSA–2009–0054, FMCSA–2009–0086, FMCSA–2009–0121, FMCSA–2009–0291, FMCSA–2010–0082, FMCSA–2010–0187, FMCSA–2010–0354, FMCSA–2010–0385, FMCSA–2010–0413, FMCSA–2011–0010, FMCSA–2011–0024, FMCSA–2011–0092, FMCSA–2011–0102, FMCSA–2011–0140, FMCSA–2012–0040, FMCSA–2012–0215, FMCSA–2012–0279, FMCSA–2012–0337, FMCSA–2013–0022, FMCSA–2013–0024, FMCSA–2013–0025, FMCSA–2013–0027, FMCSA–2013–0028, FMCSA–2013–0029, FMCSA–2014–0007, FMCSA–2014–0011, FMCSA–2014–0296, FMCSA–2014–0298, FMCSA–2014–0302, FMCSA–2014–0304, FMCSA–2014–0305, FMCSA–2015–0048, FMCSA–2015–0049, FMCSA–2015–0052, FMCSA–2015–0053, FMCSA–2015–0055, FMCSA–2015–0072, FMCSA–2016–0030, FMCSA–2016–0033, FMCSA–2016–0206, FMCSA–2016–0208, FMCSA–2016–0212, FMCSA–2016–0213, FMCSA–2016–0214, FMCSA–2017–0014, FMCSA–2017–0017, FMCSA–2017–0019, FMCSA–2017–0020, FMCSA–2018–0017, FMCSA–2019–0005, FMCSA–2019–0009, and FMCSA–2019–0011. Their exemptions were applicable as of September 6, 2021 and will expire on September 6, 2023.

As of September 7, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Charles E. Carter (MI) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (76 FR 37169, 76 FR 50318, 78 FR 78477, 80 FR 50915, 83 FR 4537, 84 FR 47038).

This driver was included in docket number FMCSA–2011–0140. The exemption was applicable as of September 7, 2021 and will expire on September 7, 2023.

As of September 13, 2021 and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (72 FR 39879, 72 FR 52419, 74 FR 41971, 76 FR 54530, 78 FR 78477, 80 FR 48402, 83 FR 4537, 84 FR 47038):

Ray C. Johnson (AR); and Joshua R. Perkins (ID)

The drivers were included in docket number FMCSA–2007–27897. Their exemptions were applicable as of September 13, 2021 and will expire on September 13, 2023.

As of September 16, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (78 FR 41975, 78 FR 56986, 80 FR 48411, 83 FR 4537, 84 FR 47038):

Carl H. Block (NY); and Vincent E. Marsee, Sr. (NC)

The drivers were included in docket number FMCSA–2013–0030. Their exemptions were applicable as of September 16, 2021 and will expire on September 16, 2023.

As of September 22, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), Samuel A. Miller (IN) has satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (74 FR 37295, 74 FR 48343, 76 FR 53708, 78 FR 78477, 80 FR 49302, 83 FR 4537, 84 FR 47038).

This driver was included in docket number FMCSA–2009–0154. The exemption is applicable as of September 22, 2021 and will expire on September 22, 2023.

As of September 23, 2021, and in accordance with 49 U.S.C. 31136(e) and 31315(b), the following two individuals have satisfied the renewal conditions for obtaining an exemption from the vision requirement in the FMCSRs for interstate CMV drivers (64 FR 27027, 64 FR 51568, 66 FR 48504, 68 FR 19598, 68 FR 33570, 68 FR 54775, 70 FR 53412, 72 FR 62896, 74 FR 43221, 76 FR 53708,

78 FR 78477, 80 FR 53383, 83 FR 4537, 84 FR 47038):

Weldon R. Evans (OH); and Orasio Garcia (TX)

The drivers were included in docket numbers FMCSA–1999–5578 and FMCSA–2003–14504. Their exemptions are applicable as of September 23, 2021 and will expire on September 23, 2023.

In accordance with 49 U.S.C. 31315(b), each exemption will be valid for 2 years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2021–21094 Filed 9–28–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–1999–6069]

Petition for Extension of Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on September 8, 2021, Buffalo Southern Railroad Inc. (BSOR) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 223.11, *Requirements for existing locomotives.* The relevant FRA Docket Number is FRA–1999–6069.

Specifically, BSOR requests an extension of relief from the safety glazing standards of 49 CFR 223.11 for three yard locomotives (BSOR 93, BSOR 100, and BSOR 105). BSOR is a short line freight carrier, and the locomotives are used for rail service and in-plant switching. All yard switching operations are performed at restricted speed. The locomotives are equipped with one-quarter inch safety glass consisting of two glass plates with laminating material. BSOR requests relief because of the slow speeds and the current safety glass installed on the locomotives.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by November 15, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable. Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), the U.S. Department of Transportation (DOT) solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2021–21146 Filed 9–28–21; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Senior Executive Service Performance Review Boards

AGENCY: Department of the Treasury.

ACTION: Notice of Appointments to Performance Review Boards (PRBs).

SUMMARY: Pursuant to Treasury regulations, this notice announces the appointment of members to the Department of the Treasury's Performance Review Boards (PRBs). The purpose of these Boards are to review and make recommendations concerning proposed performance appraisals, ratings, bonuses and other appropriate personnel actions for incumbents of SES positions in the Department.

Composition of the PRB: The Boards shall consist of at least three members. In the case of an appraisal of a career appointee, more than half the members shall consist of career appointees. The persons listed below may be selected to serve on one or more PRB within Treasury.

Names for Federal Register Publication

Top Officials

- Leonard Olijar, Director for the Bureau of Engraving and Printing
- Patricia Greiner, Deputy Director for Bureau of Engraving and Printing and Chief Administrative Officer
- Charlene William, Deputy Director for Bureau of Engraving and Printing and Chief Operating Officer
- Timothy Gribben, Commissioner for the Bureau of the Fiscal Service
- Tami Perriello, Deputy Commissioner (Finance and Administration), Bureau of the Fiscal Service
- Matthew J. Miller, Deputy Commissioner (Accounting and Shared Services), Bureau of the Fiscal Service
- Jeffrey J. Schramek, Deputy Commissioner (Financial Services and Operations), Bureau of the Fiscal Service
- Jeffrey Tribiano, Deputy Commissioner for Operations Support (IRS)
- Douglas O'Donnell, Deputy Commissioner for Services and Enforcement (IRS)
- Mary G. Ryan, Administrator for the Alcohol and Tobacco Tax and Trade Bureau
- David Wulf, Deputy Administrator for the Alcohol and Tobacco Tax and Trade Bureau
- AnnaLou Tirol, Deputy Director, Financial Crimes Enforcement Network
- David Lebryk, Fiscal Assistant Secretary
- Laurie Schaffer, Principal Deputy General Counsel
- Addar Levi, Deputy General Counsel

Departmental Offices

- John M. Farley, Director, Executive Office for Asset Forfeiture
- Benjamin Harris, Counselor to the Secretary
- Marti Pentheny Adams-Baker, Executive Secretary
- Donna Ragucci, Director for the Office of Small and Disadvantaged Business Utilization

- Elizabeth S. Rosenberg, Counselor to the Deputy Secretary
- Alfred Johnson, Deputy Chief of Staff
- Julie Siegel, Deputy Chief of Staff
- Jonathan Davidson, Counselor
- John Morton, Climate Counselor
- David Lipton, Counselor
- Brian Reissaus, Director, Investment Security
- Joseph Phillip Ludvigson, Director, Monitoring and Enforcement
- Patricia Pollard, Deputy Assistant Secretary for International Money and Financial Policy
- Matthew J. Mohlenkamp, Director, South and South East Asia
- Brian McCauley, Director, Office of Europe and Eurasia
- Clarence Severens, Director, Office of Development Results and Accountability
- Andy Baukol, Principal Deputy Assistant Secretary for International Monetary Policy
- Matthew Haarsager, Deputy Assistant Secretary for International Development Finance and Policy
- Robert Kaproth, Deputy Assistant Secretary for South and East Asia
- Michael Kaplan, Deputy Assistant Secretary for Western Hemisphere and South Asia
- Albert Lee, Director, Market Rooms
- William McDonald, Deputy Assistant Secretary for Technical Assistance Policy
- Lailee Moghtader, Deputy Assistant Secretary for Trade Policy
- Charles Moravec, Director, Multilateral Development Banks
- Jeffrey K. Baker, Deputy Assistant Secretary for Investment, Energy and Infrastructure
- Lida Fitts, Director, Energy and Infrastructure
- Anthony Ieronimo, Director, Office of Trade Finance
- Eric Meyer, Deputy Assistant Secretary for Africa, Middle East and MDB Operations
- Jason R. Orlando, Director, Office of Technical Assistance
- Matthew Swineheart, Director, International Financial Markets
- Stephen Ledbetter, Director of Policy
- Amy Edwards, Deputy Assistant Secretary (Accounting Policy and Financial Transparency)
- Gregory Till, Deputy Assistant Secretary for Fiscal Operations and Policy
- Christopher H. Kubeluis, Director for the Office of Fiscal Projections
- Theodore R. Kowalsky, Director for the Office of Grants and Asset Management
- Walter Kim, Director for the Office of Financial Institutions and Policy
- Felton Booker, Deputy Assistant Secretary, Financial Institution Policy
- Noel Poyo, Deputy Assistant Secretary for Community and Economic Development
- Christopher Weaver, Director, Office of Community and Economic Development
- Brian Peretti, Director of International Coordination and Mission Support
- Steven E. Seitz, Director for the Office of Federal Insurance Office
- Stephanie Schmelz, Deputy Director, Federal Insurance
- Rahul Prabhakar, Deputy Assistant Secretary for Cybersecurity and Critical Infrastructure
- Paul Neff, Director of Cyber Policy, Preparedness and Response
- Jodie L. Harris, Director for Community Development and Financial Institutions
- Dennis E. Nolan, Deputy Director for Finance and Operations
- Marcia Sigal, Deputy Director for Policy and Programs
- Brian M. Smith, Deputy Assistant Secretary for Federal Finance
- Gary Grippo, Deputy Assistant Secretary for Government Financial Policy
- Bonnie Adair Morse, Deputy Assistant Secretary for Capital Access
- Jeffrey Stout, Director of Federal Program Finance
- Fred Pietrangeli, Director for the Office of Debt Management
- Daniel J. Harty, Director, Capital Markets
- Melissa Moye, Director for State and Local Finance
- Andrea Gacki, Director for the Office of Foreign Assets Control
- Bradley T. Smith, Deputy Director for the Office of Foreign Assets Control
- Gregory Gatjanis, Associate Director for the Office of Global Targeting
- Lisa M. Palluconi, Associate Director for the Office of Program Policy and Implementation, Office of Foreign Assets Control
- John H. Battle, Associate Director for Resource Management, Office of Foreign Assets Control
- Billy Bradley, Deputy Director, Treasury Executive Office for Asset Forfeiture
- Lawrence Scheinert, Associate Director for the Office of Compliance and Enforcement
- Ripley Quinby, Deputy Associate Director, Office of Global Targeting
- Paul Ahern, Principal Deputy Assistant Secretary for Terrorist Financing and Financial Crimes
- Scott Rembrandt, Deputy Assistant Secretary for the Office of Strategic Policy, Terrorist Financing and Financial Crimes
- Anna Morris, Deputy Assistant Secretary for Global Affairs
- Rhett Skiles, Deputy Assistant Secretary, Cyber Intelligence
- Katherine Amlin, Deputy Assistant Secretary for Analysis and Production
- Thomas J. Wolverton, Deputy Assistant Secretary for Security and Counterintelligence
- Michael Neufeld, Principal Deputy Assistant Secretary for Support and Technology
- Patrick Conlon, Director for the Office of Economics and Finance
- Everette E. Jordan, Deputy Assistant Secretary for Intelligence Community Integration
- Todd Conklin, Chief Information Officer, Intelligence Platform and Innovation
- Aruna Kalyanam, Deputy Assistant Secretary for Legislative Affairs (Tax and Budget)
- Angel Nigaglioni, Deputy Assistant Secretary for Legislative Affairs (Appropriations and Management)
- Craig Radcliffe, Deputy Assistant Secretary for Legislative Affairs (Banking)
- Lily A. Adams, Principal Deputy Assistant Secretary for Public Affairs
- Antonio White, Deputy Assistant Secretary for Community Engagement
- Natasha R. Sarin, Deputy Assistant Secretary for Microeconomic Analysis
- Christopher J. Soares, Director, Office of Microeconomic Analysis
- Catherine Wolfram, Deputy Assistant Secretary, Climate and Energy Economics
- Jonathan S. Jaquette, Director for Receipts Forecasting
- Mark Mazur, Deputy Assistant Secretary for Tax Policy
- Neviana Petkova, Director for Individual Business and International Taxation
- Edith Brashares, Director for the Office of Tax Analysis
- Curtis Carlson, Director for Business Revenue
- Adam Cole, Director for Individual Taxation
- Timothy E. Skud, Deputy Assistant Secretary for Tax, Trade and Tariff Policy
- Robert E. Gillette, Director for Economic Modeling and Computer Applications
- Kimberly Clausing, Deputy Assistant Secretary for Tax Analysis
- Jose Murillo, Deputy Assistant Secretary for International Tax Affairs
- Thomas West, Deputy Assistant Secretary for Domestic Business Tax
- Itai Grinberg, Deputy Assistant Secretary for Multilateral Tax
- Rebecca Kysar, Counselor
- Ryan Law, Deputy Assistant Secretary for Privacy Transparency and Records
- Robert Mahaffie, Deputy Assistant Secretary for Management and Budget

- Tonya Burton, Director for the Office of Financial Management
- Lenora Stiles, Director, Strategic Planning and Performance Improvement
- Stephen Cotter, Director, Special Entity Accounting
- William Sessions, Departmental Budget Director
- Carole Y. Banks, Deputy Chief Financial Officer
- Nicole K. Evans, Director, Office of Procurement Executive
- J. Trevor Norris, Deputy Assistant Secretary for Human Resources and Chief Human Capital Officer
- Lorraine Cole, Director, Office of Minority and Women Inclusion
- Colleen Heller-Stein, Human Resource Officer for Departmental Offices/Deputy Chief Human Capital Officer
- Nancy Ostrowski, Director of DC Pensions
- David Aten, Director, Integrated Talent Management Implementation
- Antony P. Arcadi, Associate Chief Information Officer for Enterprise Infrastructure Operations
- Nicolaos Totten, Associate Chief Information Officer for Enterprise Application Services
- Michael O. Thomas, Deputy Assistant Secretary for Treasury Operations

Office of the General Counsel

- Hanoi Veras, Deputy Assistant General Counsel (Ethics)
- Heather Trew, Assistant General Counsel (Enforcement and Intelligence)
- Frank P. Menna, Deputy Assistant General Counsel (Enforcement and Intelligence)
- Jacob Loshin, Deputy Assistant General Counsel (Enforcement and Intelligence)
- Jason M. Prince, Chief Counsel, Office of Foreign Assets Control
- Eric Froman, Assistant General Counsel (Banking and Finance)
- Stephen Milligan, Deputy Assistant General Counsel (Banking and Finance)
- Theodore Posner, Assistant General Counsel (International Affairs)
- Alexandra Yestrumskas, Deputy Assistant General Counsel (International Affairs)
- Jeffrey M. Klein, Deputy Assistant General Counsel (International Affairs)
- Brian J. Sonfield, Assistant General Counsel (General Law, Ethics and Regulation)
- Michael Briskin, Deputy Assistant General Counsel (General Law and Regulation)
- Kevin Nichols, International Tax Counsel
- Krishna Prasad Vallabhaneni, Tax Legislative Counsel
- Carol Ann Weiser, Benefits Tax Counsel
- Helen Morrison, Deputy Benefits Tax Counsel
- Brett Steven York, Deputy Tax Legislative Counsel
- Michelle Dickerman, Deputy Assistant General Counsel for Oversight and Litigation
- Katrina Carroll, Chief Counsel for the Financial Crimes Enforcement Network
- Heather Book, Chief Counsel for the Bureau of Engraving and Printing
- John F. Schorn, Chief Counsel for the U.S. Mint
- Lillian Lai-Lin Cheng, Chief Counsel for the Bureau of the Fiscal Service
- Anthony P. Gledhill, Chief Counsel for the Tax and Trade Bureau

Bureau of Engraving and Printing

- Judith Diazmyers, Senior Advisor
- Steven Fisher, Associate Director (Chief Financial Officer)
- Richard Roy Clark, Associate Director (Quality)
- Frank Freeman III, Associate Director (Management)
- Justin D. Draheim, Associate Director (Product Design and Development)
- Harinder Singh, Associate Director, (Chief Information Officer)
- Yolanda Ward, Associate Director, Manufacturing (DCF)

Financial Crimes Enforcement Network

- Himamauli Das, Counselor to the Director of the Financial Crimes and Enforcement Network
- Amy L. Taylor, Associate Director, Technology Solutions and Services/CIO
- Peter Bergstrom, Associate Director, Management/CFO
- Felicia Swindells, Associate Director, Policy Division
- Jimmy Kirby Jr, Associate Director, Intelligence Division
- Kenneth L. O'Brien, Deputy Associate Director, Chief Technology Officer
- Matthew R. Stiglitz, Associate Director, Global Investigations Division
- Timothy Ott, Strategic Advisor

U.S. Mint

- Matthew Holben, Associate Director for Sales and Marketing/Chief Marketing and Sales Officer
- Kristie L. McNally, Associate Director for Financial Management/CFO
- David Croft, Associate Director for Manufacturing
- Francis O'Hearn, Associate Director for Information Technology
- Robert Kuryzna, Plant Manager, Philadelphia
- B.B. Craig, Associate Director for Environment, Safety and Health
- Allison Doone, Chief Administrative Officer
- Randall Johnson, Plant Manager for Denver

Tax and Trade Bureau

- Daniel T. Riordan, Assistant Administrator, Permitting and Taxation
- Cheri Mitchell, Assistant Administrator, Management/CFO
- Robert Hughes, Assistant Administrator, Information Resources/CIO
- Elisabeth C. Kann, Assistant Administrator, External Affairs/Chief of Staff

Bureau of the Fiscal Service

- Keith Alderson, Director (DMSOC-East)
- Douglas Anderson, Assistant Commissioner (Retail Securities Services)
- Daniel Berger, Deputy Assistant Commissioner (Management)
- Linda C. Chero, Director, (RFC Philadelphia)
- David T. Copenhaver, Assistant Commissioner (Wholesale Securities Services)
- Christina M. Cox, Deputy Assistant Commissioner (Payment Management)
- Paul Deuley, Senior Advisor
- Peter T. Genova, Deputy Assistant Commissioner for Security Services/Deputy Chief Information Officer
- Joseph Gioeli, Assistant Commissioner (Information and Security Services)
- Adam H. Goldberg, Executive Architect (Financial Innovation)
- Jason T. Hill, Deputy Assistant Commissioner (Shared Services)
- John B. Hill, Director (Financial Innovation and Transformation)
- Wallace H. Ingram, Director (DMSOC-West)
- Amanda M. Kupfner, Deputy Assistant Commissioner for Infrastructure and Operations
- Madiha D. Latif, Director (Compliance and Reporting Group)
- D. Michael Linder, Assistant Commissioner (Fiscal Accounting)
- Tricia J. Long, Deputy Assistant Commissioner (Debt Management Services)
- Justin Marsico, Chief Data Officer (Deputy Assistant Commissioner)
- Nathanial Reboja, Deputy Assistant Commissioner for Information Services
- Sandra Paylor, Director (Revenue Collection Group)
- Alyssa W. Riedl, Executive Director, Transforming Tax Collections

- Vona Susan Robinson, Executive Director (Kansas City)
- Tamela Saiko, Deputy Assistant Commissioner (Fiscal Accounting Operations)
- Lori Santamorena, Executive Director (Government Securities Regulations Staff)
- Dara N. Seaman, Senior Advisor (Services and Programs)
- Thomas T. Vannoy, Deputy Assistant Commissioner (Wholesale Securities Services)
- Daniel J. Vavasour, Assistant Commissioner (Debt Management Services)

DATES: *Applicable Date:* Membership is effective on the date of this notice.

FOR FURTHER INFORMATION CONTACT: Julia J. Markham or Kimberly Jackson, Office of Executive Resources, 1500 Pennsylvania Avenue NW, ATTN: 1722 Eye Street, 9th Floor, Washington, DC 20220, Telephone: 202–622–0774.

Kimberly Jackson,

Human Resources Specialist, Office of Executive Resources.

[FR Doc. 2021–21179 Filed 9–28–21; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–XXXX]

Agency Information Collection Activity: Agency Information Collection Activity Under OMB Review: VA Form 26–0967, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, and VA Form 26–0967a, Specially Adaptive Housing Assistive Technology Grants Criteria and Responses

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before November 29, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov* Please refer to ''OMB Control No. 2900–XXXX'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–XXXX'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Agency Information Collection Activity under OMB Review: VA Form 26–0967, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, and VA Form 26–0967a, Specially Adaptive Housing Assistive Technology Grants Criteria and Responses

OMB Control Number: 2900–XXXX.

Type of Review: New.

Abstract: The proposed regulations would require applicants to submit VA Form 26–0967, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion. These regulations would also require applicants to provide statements addressing six scoring criteria for grant awards as part of their application. The information will be used by Loan Guaranty personnel in deciding whether an applicant meets the requirements and satisfies the scoring criteria for award of an SAH Assistive Technology grant under 38 U.S.C. 2108. 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.

Affected Public: Individuals and households.

Estimated Annual Burden: 40 hours.

Estimated Average Burden per Respondent: 2 hours.

Frequency of Response: One time.

Estimated Number of Respondents: 20.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–21093 Filed 9–28–21; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 86 Wednesday,

No. 186 September 29, 2021

Part II

The President

Proclamation 10262—National Hunting and Fishing Day, 2021
Proclamation 10263—National Public Lands Day, 2021
Proclamation 10264—Gold Star Mother's and Family's Day, 2021

Federal Register
Vol. 86, No. 186
Wednesday, September 29, 2021

Presidential Documents

Title 3—

The President

Proclamation 10262 of September 24, 2021

National Hunting and Fishing Day, 2021

By the President of the United States of America

A Proclamation

On National Hunting and Fishing Day, we celebrate the time-honored traditions of hunting and fishing and their role in providing people of all ages and backgrounds the opportunity to enjoy the great American outdoors. From the earliest days of our Nation, hunting and fishing have instilled respect for our long-cherished natural resources and American ethic of conservation. Passed on through generations, these beloved pastimes bring families, friends, and neighbors together to bond in the spirit of sportsmanship, cultivate respect for our lands, waters, and wildlife, and provide peaceful sanctuary amid our Nation's natural wonders.

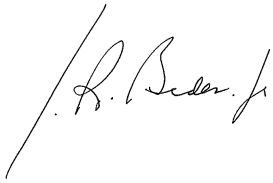
During the COVID–19 pandemic, hunting and fishing have been especially critical in providing a recreational reprieve for many Americans from the stressors of these difficult times. When entertainment venues, stadiums, gyms, and local businesses were closed, hunting and fishing afforded many Americans the opportunity to commune with nature and find some semblance of normalcy. The majestic public lands and waters of our country—and our responsibility to serve as good stewards of the natural resources we have been blessed with—are even more appreciated by those who took to the great outdoors as an outlet during the pandemic. It is one of the reasons the Department of the Interior recently announced the largest expansion of hunting, fishing, and outdoor recreation opportunities on public lands in recent history.

Ensuring that public lands are available to every American for activities like hunting and fishing is central to my Administration's ''America the Beautiful'' initiative—an ambitious goal to pursue a locally-led and national, voluntary effort to conserve, connect, and restore 30 percent of our lands and waters, by 2030. We will continue to carry out this program together with agricultural and forest landowners; anglers, hunters, and outdoor enthusiasts; Tribal Nations, States, and territories; local officials; and other important partners and stakeholders in order to identify conservation strategies that reflect the priorities of all communities. This initiative is only a starting point in our efforts to protect our environment and conserve our resources for future generations. We will continue to rely on America's sportswomen and men to pass on their love and respect for our lands, waters, and wildlife to our children and grandchildren.

Hunting and fishing also play a large role in funding conservation efforts, for example through fishing licenses and Duck Stamps—works of art that for nearly a century have helped protect habitats for birds and other wildlife. These activities also fuel economic prosperity—especially in rural communities—with more than 50 million Americans hunting and fishing every year, creating over $200 billion in economic activity and supporting over 1.5 million jobs. The continuation of these time-honored traditions will ensure that our lands and waters receive the care and funding they need to stay accessible and magnificent for all Americans. Whether fulfilling a family tradition on opening day of hunting season or a new angler catching their first trout on a restored river, we will ensure that future generations have the same opportunities to take part in these cherished pastimes.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 25, 2021, as National Hunting and Fishing Day. I call upon all Americans to observe this day with appropriate programs and activities.

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



[FR Doc. 2021–21361
Filed 9–28–21; 11:15 am]
Billing code 3295–F1–P

Presidential Documents

Proclamation 10263 of September 24, 2021

National Public Lands Day, 2021

By the President of the United States of America

A Proclamation

On National Public Lands Day, we celebrate America's beautiful and majestic public lands—those irreplaceable natural treasures that belong to all of us in equal measure. Our Nation is blessed with an abundance of awe-inspiring public lands, including National Parks, Monuments, conservation areas, wildlife refuges, forests, grasslands, marine sanctuaries, lakes, and reservoirs. For Americans in every part of our Nation, these spaces are invaluable sources of recreation and education, of spiritual fulfillment and rejuvenation, and of inspiration and pride.

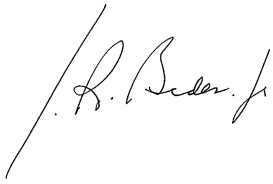
Since 1994, National Public Lands Day has brought together hundreds of thousands of volunteers to help restore these essential places; today, it is the largest single-day public lands volunteer event in our Nation. From Shenandoah National Park to Tonto National Forest, volunteers complete service projects like building bridges and trails, restoring native ecosystems, collecting trash, and removing invasive species. These service projects also give volunteers the opportunity to learn more about our public lands and understand the environmental, economic, and health benefits our natural wonders provide. On this day, all federally managed public lands and waters will offer free admission for anyone in America who wishes to explore these shared spaces.

My Administration is committed to conserving our precious public lands and waters. Earlier this year, I signed an Executive Order to create a Civilian Climate Corps, which will put dedicated Americans to work conserving and restoring our public lands and waters for the benefit of all our people. Through our ''America the Beautiful'' initiative, we are also working with State, local, and Tribal governments as well as private landowners through voluntary conservation efforts to achieve our goal of conserving 30 percent of our Nation's lands and waters by 2030. This decade-long effort will harness the best of the American spirit to protect our biodiversity, improve access to public spaces, and conserve and restore the lands, waters, and wildlife that we all depend on for generations to come.

Our public lands have provided millions of Americans with a much-needed reprieve from the stress and hardships felt during the COVID–19 pandemic. As we continue to get America vaccinated and defeat the pandemic, I invite all Americans to recognize the enormous value—both tangible and intangible—of these unique natural places and to support their local public lands and waters through acts of volunteerism and service. At the same time, we also recognize that not all Americans have equal access to our public lands. My Administration is committed to improving equitable access to nature in every community and to ensuring that every American has the opportunity to enjoy these natural spaces that belong to all of us.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim September 25, 2021, as National Public Lands Day. I invite all Americans to join me in a day of service for our public lands.

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



[FR Doc. 2021–21362
Filed 9–28–21; 11:15 am]
Billing code 3295–F1–P

Presidential Documents

Proclamation 10264 of September 24, 2021

Gold Star Mother's and Family's Day, 2021

By the President of the United States of America

A Proclamation

Throughout our history, America's men and women in uniform have dedicated their lives and made the ultimate sacrifice to protect our freedom and the freedom of oppressed people around the world. They are the backbone of America, and make up the bravest, most capable, most selfless military on the face of the Earth. We witnessed that in the historic undertaking to evacuate more than 124,000 American citizens, the citizens of our allies and partners, our Afghan allies, and other at risk Afghans from Kabul, Afghanistan.

I am outraged by the vicious terrorist attack at the Kabul Airport that took the lives of our brave service members who were working to save the lives of others. My heart aches that this year we have more Gold Star families who must mourn their heroic loved ones. Our Nation is forever indebted to those who gave their last full measure of devotion to defend our peace and security. We are devastated by their loss and inspired by their sacrifice. When we remember these fallen service members, we must also honor the people who mourn their losses. We remember them every day, and on this day, we pay special tribute to their surviving families.

The families of our fallen men and women in uniform understand the true and painful price of freedom—coping with loss and unspeakable grief. And today, on Gold Star Mother's and Family's Day, we recognize their enduring pain and honor their resilience. We stand with them to preserve the legacy of their fallen loved ones and pledge that their memories and their sacrifices will never be forgotten.

Jill and I know the pride, but also the uncertainty and fear, that military families feel when their loved ones are deployed, wondering if they will return home. Whenever I deploy our troops into harm's way, I take that responsibility seriously. It is a burden that I carry every day. Every life lost in service to this country is an unspeakable tragedy, and while we as a Nation can never repay that debt, we have a sacred obligation to support those they leave behind.

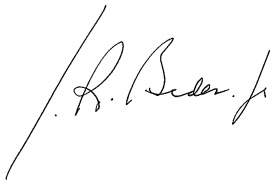
To all of our surviving families, know that our entire Nation grieves with you. Know that there are resources available and ready to support you, and know that the American people will keep our sacred obligation to you and to the memory of your loved one. You represent the best of America, and we are grateful for your courage.

The Congress, by Senate Joint Resolution 115 of June 23, 1936 (49 Stat. 1895 as amended), has designated the last Sunday in September as ''Gold Star Mother's Day.''

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim Sunday, September 26, 2021, as Gold Star Mother's and Family's Day. I call upon all Government officials to display the flag of the United States over Government buildings on this special day. I also encourage the American people to display the

flag and hold appropriate ceremonies as a public expression of our Nation's gratitude and respect for our Gold Star Mothers and Families.

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



[FR Doc. 2021–21363
Filed 9–28–21; 11:15 am]
Billing code 3295–F1–P

Reader Aids

Federal Register

Vol. 86, No. 186

Wednesday, September 29, 2021

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